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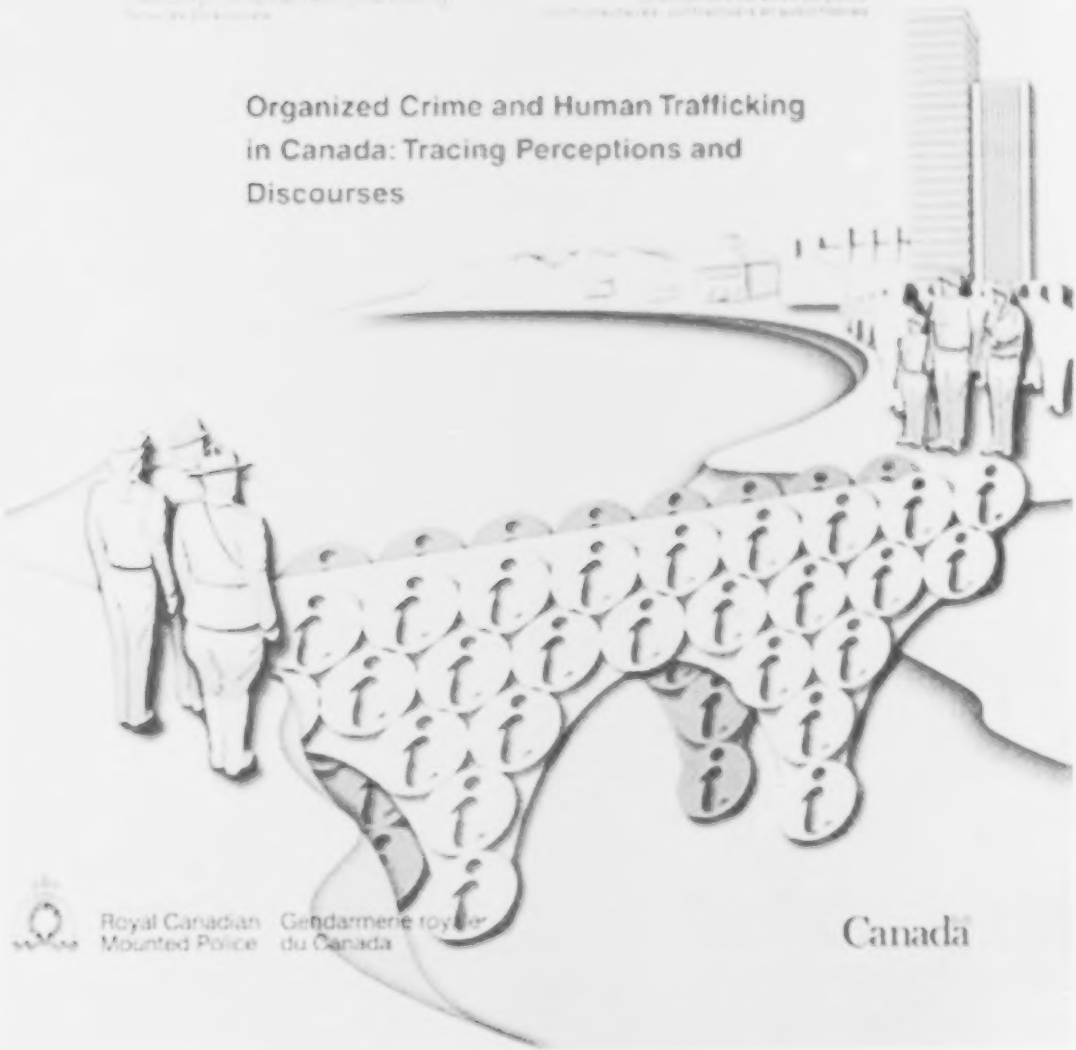
Organized Crime and Human Trafficking in Canada: Tracing Perceptions and Discourses



Royal Canadian Mounted Police / Gendarmerie royale du Canada

Canada

105-03526/

Organized Crime and Human Trafficking in Canada: Tracing Perceptions and Discourses

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Ottawa, 2004

Opinions expressed are those of the authors and do not necessarily reflect those of the Royal Canadian Mounted Police or the Government of Canada.

Available on the Internet at: www.rcmp-grc.gc.ca/ccaps/research_eval_e.htm
Available on Infoweb at: infoweb.rcmp-grc.gc.ca

Catalogue No.: PS64-1/2004E-PDF
ISBN 0-662-36283-7

Executive Summary

In the 1990s the trafficking and smuggling of persons emerged as a subject of debate in Canada and internationally. In particular the locus of concern, embodied in the image of the 'sex slave', was women trafficked by crime syndicates to work in the commercial sex trade. The lack of definitional consensus, theoretical frameworks or solid empirical research in support of underlying assumptions notwithstanding, the United Nations and countries around the world including Canada adopted a particular discourse that informed policies to address the issue. In this report the findings from a three part study that offers a preliminary analysis into the intersection and interaction between official legislatively-enshrined discourses, judicial rulings, and the understanding and knowledge of criminal justice professionals and sex trade worker advocates, are presented.

The first section briefly sketches the official discourse as reflected in United Nations and Canadian state documents. Here the trafficking and smuggling of humans is situated within the broader context of social and economic inequity, however strategies to address the problems are principally framed in terms of a criminal justice tactics - greater criminalization and cross-national collaboration by police and other authorities. By contrast, the counter-discourse embodied in the documents produced by national and international rights organizations speak to the need to address the root causes of trafficking and smuggling and the implementation of strategies to meet the needs of victims.

In the second part of the report the Canadian judicial discourse is analyzed to ascertain how the courts respond to cases involving irregular migrant women in the sex trade, the significance accorded to the intersection between organized crime and smuggling for judicial decisions, and the reliance on documentary discourses. A thorough data bank search indicates that between 1992 and 2002 the issue was largely addressed through refugee tribunals with limited criminal court engagement. Analysis of these recorded refugee hearings speak to the question of shifting discourses. Prior to 1997 the courts framed the victimization of migrant women in the sex trade as perpetuated by individual(s). Absent is any mention of debt-bondage, organized crime or trafficking. By 1997 trafficking women into North America for the purposes of prostitution by organized crime was widely accepted as problematic. While this discourse did facilitate the

emergence of a new category of refugee claimants, "single women involved in [or alternately forced into the sex industry with an outstanding debt bond" it did not appear to have resulted in greater responsiveness on the part of the judiciary to irregular migrant sex trade workers.

The review of the cases reveals that, in spite of the judiciaries' implicit acceptance of the official and counter discourse vis-à-vis the trafficking of women for the purposes of prostitution by organized crime, judgments are, for the most part, marked by a lack of sensitivity to the cultural, economic and social reality of undocumented migrant workers generally and to the reality of exploitation, violence and stigma experienced by sex trade workers more specifically. Moreover the documents are interpreted in a manner that renders the majority of claimants outside the discourse and hence not entitled to the consideration afforded 'victims'. In particular the extra-judicial and potentially moral question of whether the women knew they would be working in the sex trade is rendered significant. It would appear that embedded in the sex slave/sex worker dichotomy is another dualism – innocent/culpable. Therefore women who are unaware that they will participate in the trade are potentially protected while women who experience severe labour abuse are held accountable for their situation regardless of the exploitation they may experience. In short the 'sex slave' discourse may operate against the interests of many irregular migrant sex trade workers by obscuring their exploitation at the same time as it renders exploitation the defining characteristic of others.

The third section of the report focuses on the professional discourses in Canada. In this part of the report the findings of a series of ten directed interviews with criminal justice representatives and sex trade worker advocates who represent a range of perspectives and institutional locations, are presented. A number of notable points emerged from the interviews, some of which challenge established discourses and speak to the need to rethink assumptions. These include an image of smuggling as undertaken by loosely affiliated networks of enterprising individuals motivated by financial gain, engaging in market-driven activities that are not regarded as deviant by either agents or the alleged victims.

Research respondents did not deny the agency of irregular migrants by defining them solely as victims. They drew attention to peoples' active pursuit of "snakeheads" (the leader of human smuggling) to facilitate their passage to North America and situated their decision to migrate through irregular channels in the context of global inequity conditioned by poverty, the lack of alternatives and culture. They did however indicate that these individuals were vulnerable to victimization by smugglers *and* by employers. On the one hand irregular migrants might be

subject to excessive fees, extortion, real or threatened violence and debt-bondage, on the other hand they may be the victims of exploitative labour practices by employers who take advantage of their vulnerability and lack of alternatives. Within this context of limited options, family obligation, high debt and exploitative labour conditions some irregular migrants may choose to earn their livelihood in the illicit sectors of the labour market including smuggling activities and the sex trade. Not surprisingly the media conflation of the sex trades and irregular migration embodied in the image of the 'sex slave' was marginal in the discourse of research participants. Instead a more nuanced analysis was put forward that conceptualized the issue in relation to broader questions of exploitation and labour migration while recognizing that the hardships confronted by irregular migrants generally including the lack of legal, health and political resources is exacerbated for these women by their status as sex trade workers.

In short the interviews speak to the need to revisit the dominant discourse. Reactive strategies of repression not only fail to address the root causes of irregular migration but also obscure the *labour* exploitation of irregular migrants in consumerist host countries. Moreover although human smuggling is indisputably consistent with the *Canadian Criminal Code* definition of organized crime to the extent that it is an illicit activity that requires the cooperation of more than three persons in, or outside of, Canada. It is less clear that the organized crime model provides a useful conceptual framework for analysing smuggling practices. Among other things, this immediately positions the activities within a broader discourse of alien conspiracy and hierarchically structured gangs. In addition conceptualizing irregular migration as a criminal justice problem obscures not only the political, social and economic context out of which the trade emerges but also renders the complicity of 'reputable' non-criminalized employers and consumers in receiving countries outside of the discourse. It also leaves little room for addressing the needs of illegal migrants.

When we focus on irregular migrant women in the sex trade the need to rethink the framework in which the issue is conceptualized is further supported. The discursive association with organized crime function to further legitimate the criminalization of the trade which in practice defines the women as victims at the same time as it sanctions them; denies them information, protection and support; and renders them more vulnerable to exploitation and violence by agents, employers, and customers. It also obscures the commonality with broader issues of the irregular migration and situates the issue outside of considerations of labour.

From this point of departure it is important, on the one hand, to attend to the complex interplay

of push and pull factors that drive irregular migration and on the other hand, to address the social and labour needs of all persons regardless of immigration status or labour location. Such an approach does not necessarily entail the abandonment of criminal justice intervention in response to the violence and exploitation which can characterize the trafficking and smuggling of persons. It does however speak to the need to envision a model of intervention that is sensitive to the needs of irregular migrants ensuring that the state response neither victimizes them further, nor facilitates their exploitation.

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Acknowledgements

We would like, first and foremost, to express our gratitude to the research participants who took the time to answer our questions, reflect on the issues, share their stories and review the transcripts. Among police personnel, we benefited from the assistance of a corporal, sergeant and inspector from the RCMP, a detective constable from the Toronto Police Service, a sergeant and a staff sergeant from the Toronto Police. We also received the assistance of sex trade worker advocates as well as a crown attorney.

Our thanks to a detective sergeant, executive officer, Toronto Police Service Detective Support, for his assistance in reaching criminal justice professionals.

Finally, we are thankful to Suzanne Bouclin for her outstanding legal research assistance and to Stacey Hannem-Kish for her timely and accurate transcription of the interviews.

Introduction

Since the early 1990s, irregular migration and more specifically, women trafficked by organized crime syndicates for the purpose of prostitution have engendered considerable interest and concern internationally and within Canada. By the late 1990s the media were prominently featuring the sexual slavery discourse and the issue quickly became a 'social problem' in the sociological sense of a practice that is made into a problem whether or not it is 'objectively' problematic[1] (Spector and Kitsuse, 1973). The lack of definitional consensus, theoretical frameworks or solid empirical research in support of underlying assumptions (Bruckert and Parent, 2002) notwithstanding, the United Nations and countries around the world including Canada, have established policies in an attempt to address the issue.[2] All of which begs the question: What is the impact of the official discourse and how is it played out in practice?

It is with this question in mind that we sought to examine how the discourses about human trafficking, the sex trade and organized crime in Canada during the last decade are realized in criminal justice policy and practice, and how they have been taken up by actors in the criminal justice system (judiciary, police professionals) and by advocates. Initially the goal had been to examine the discourses, policies and practices that surround women from Eastern Europe and from Asia. Our efforts to include the former population where however stymied on the one hand by the lack of recorded judicial cases involving Eastern European women in the sex trade, and on the other hand by our lack of access to professionals involved in police initiatives that target this population.[3] As a result, although some refugee hearings of Eastern European women are analyzed, the report focuses almost exclusively on migrant women in the sex trade from Asia.

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[1] The term "social problem" (Spector and Kitsuse, 1973) situates the issue without judging whether or not it is in fact objectively occurring or occurring with increasing frequency, merely that it is perceived as such by the community and policy makers. Some issues such as drunk driving and wife battery emerge due to claims making activities by interest groups while others can more accurately be understood as media panics (Kappeler et al., 2000). It is in this sociological sense that the term is employed in this report.

[2] As we will see in the coming sections, in 2000 the United Nations adopted the *United Nations Convention Against Transnational Organized Crime* as well as two supplementary protocols: *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and the *Protocol Against the Smuggling of Migrants by Land, Sea and Air* in 2000. As a signatory nation, Canada has harmonized the *Criminal Code* and, in 2002, proclaimed the *Immigration and Refugee Protection Act*. It also is the basis for law enforcement initiatives including the Toronto area projects Orphan, Trade and Almonzo.

[3] This will be further developed in section two of the report.

In this report the findings from our three part study are presented. The research entailed first identifying and briefly summarizing key Canadian and United Nations documents to sketch the official discourse. The second part of the project involved a thorough data bank search using *Quicklaw* to identify relevant refugee and judicial cases from between 1992 and 2002. The cases were analyzed to ascertain how the courts regarded the trafficking of women in the sex trade, the significance accorded for judicial decisions to the intersection between organized crime and smuggling and the reliance on documentary discourses. Finally we conducted a series of directed interviews with seven criminal justice representatives and three sex trade worker advocates who represent a range of perspectives and institutional locations in order to garner insights into their understanding of the issues. By juxtaposing the findings that emerged from the official documents and the two above-noted research projects, the study offers a preliminary analysis into the intersection and interaction between official legislatively-enshrined discourses, judicial rulings, and the understanding and knowledge of professionals operating in various key locations.

The Discursive Framework

In order to situate the research presented in subsequent chapters within the discursive field of the dominant conversations, this section of the report will identify and briefly summarize key documents from the United Nations (UN) and the Canadian government prior to highlighting some of the critiques emerging from both national and international organizations.[4]

United Nations Discourse

The first United Nations statute on human trafficking was a response to the turn of the 20th century moral panic premised on allegations of the widespread luring of naive 'innocent' young women into the sex trade. Largely discounted by researchers (Rosen, 1982; Valverde, 1991; Doezema, 2000), these claims nonetheless engendered sufficient support for the UN to ratify the *International Agreement for the Suppression of the White Slave Trade* in 1904. This was followed by the adoption of the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* in 1949.

In 2000, within a broader context of reports of increasing transnational organized crime activity and a reconfiguration of the 'white slave trade' as the trafficking of third world and non-western women for the purposes of prostitution by organized crime groups (Bruckert and Parent, 2002:3), the United Nations adopted the *United Nations Convention Against Transnational Organized Crime* as well as two supplementary protocols: *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and the *Protocol Against the Smuggling of Migrants by Land, Sea and Air*. The convention "provides a tool-based approach for fighting organized crime through international co-operation and law enforcement provisions" (Canada, 2000). More specifically signatory states including Canada are obliged to, if not already the case, criminalize activities associated with organized crime such as conspiracy, the intimidation of witnesses, and corruption; undermine the profitability of organized crime syndicates by targeting activities including money laundering; and implement provisions to ensure cross-national collaboration and communication between police services.

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[4] For a more comprehensive overview of the literature see Bruckert and Parent (2002).

In addition the two supplementary protocols target specific areas of organized criminal activity - the transnational smuggling and trafficking of humans. The *Protocol Against the Smuggling of Migrants by Land, Sea and Air* commences with a preamble that draws attention to the socio-economic dimensions of smuggling; the need to address the "root causes of migration, especially those related to poverty,… the need to provide migrants with humane treatment and full protection of their rights; [and the concern that] smuggling of migrants can endanger the lives or security of the migrants involved" (United Nations, 2000:1). The terms of the protocol ensure that migrants are protected from prosecution.[5] It also advocates for the implementation of preventative education programs[6] and urges state parties to promote or strengthen development programs in order to combat the root socio-economic causes of migrant smuggling, including poverty and underdevelopment.[7] These considerations notwithstanding the protocols principally address criminal justice issues. Under the protocol signatory nations are required to criminalize migrant smuggling,[8] enact laws to counteract strategies employed by agents including the falsification, provision or procurement of fraudulent travel documents for financial gain[9] and to develop cross-national agreements to combat migrant smuggling.

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* reaffirms the importance of cross national collaboration by police officials[10] and obliges signatory nations to criminalize the organization, assistance or participation in the trafficking of humans which is defined as:

> The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability.[11]

The protocol also addresses the needs of victims; here however signatory nations are merely required to, "in appropriate cases, and to the extent possible under its domestic law" protect the privacy and identity of trafficked persons[12] and to *consider* implementing measures to ensure

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[5] *United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air*, Article 5.
[6] *United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air*, Article 15.1.
[7] *United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air*, Article 15.3.
[8] *United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air*, Article 6.1.
[9] *United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air*, Articles 6.1, 6.2.
[10] United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*., Article 10.
[11] United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Article 3(a).
[12] United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Article 6.1.

medical and material assistance, meet the physical, psychological, shelter, counselling and social needs of victims, and provide information about legal rights.[13] Moreover, although the protocol identifies poverty, underdevelopment and unequal opportunity as factors that render people vulnerable to trafficking, signatory nations are committed only to undertaking "measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons."[14] It does however also require that "state parties adopt or strengthen legislation or other measures....to discourage the demand that fosters all forms of exploitation."[15]

Canadian Governmental Discourse

Canada ratified the United Nations Convention and supplementary protocols on December 15, 2000 in Palermo Italy. Since that time Canada has amended the *Criminal Code*, defining organized crime as:

> A group, however organized, that a) is composed of three or more persons in or outside Canada; and b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit including financial benefit, by the group or by any of the persons who constitute the group.[16]

In addition there are a number of other *Criminal Code* sections that target organized crime including provisions against money laundering,[17] seizure of the proceeds of crime,[18] and increased sanctions for acts committed on behalf of an organized crime group.[19] With the exception of a rarely used provision that criminalizes procuring "a person to enter or leave

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[13] United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Article 6.3.
[14] United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Article 9.2.
[15] United *Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Article 10.5.
[16] Section 467.1 (1) of the *Canadian Criminal Code*.
[17] Section 462.31 of the *Canadian Criminal Code*.
[18] Section 462.37 of the *Canadian Criminal Code*.
[19] Section 718.2 (a) of the *Canadian Criminal Code*.

Canada for the purposes of prostitution,"[20] neither the smuggling nor the trafficking in persons is criminalized in the *Canadian Criminal Code*. That being said, there are a number of potentially relevant sections in the *Code* that address the problematic aspects of the trade including, but not limited to, kidnapping,[21] extortion,[22] forcible confinement,[23] intimidation,[24] and assault.[25]

Trafficking in persons is however criminalized under the *Immigration and Refugee Protection Act* (IRPA) which came into force on June 28, 2002. This broad-based statute replaced the 1996 *Immigration Act* and was to modernize Canada's immigration policy with provisions to, on the one hand, attract the skilled workers Canada requires and on the other, target those who threaten Canadian security (Canada, 2002). Under this statute smuggling, ("knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other documentation required by the Act"[26]) and trafficking, ("knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or force or coercion"[27]) are criminalized and sentences of up to ten years imprisonment in the case of the former and life sentences in the case of the latter are specified. Moreover, courts are instructed to consider the engagement of organized crime and profit motivation as well as whether people were harmed or subjected to humiliating or degrading treatment in the process.[28] Notably absent in IRPA are provisions for the protection of victims.[29]

Other Conversations

The United Nations convention and protocols, while situating the trafficking and smuggling of humans within the broader context of social and economic inequity, nonetheless present strategies to address the problems principally in terms of criminal justice tactics - greater

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[20] A thorough search of the *Quicklaw* data banks did not reveal a single recorded case of charges under section 212.1 (g) of the *Canadian Criminal Code*.

[21] Section 279 (1) of the *Canadian Criminal Code*.

[22] Section 346 of the *Canadian Criminal Code*.

[23] Section 279 (2) of the *Canadian Criminal Code*.

[24] Section 423 (1) of the *Canadian Criminal Code*.

[25] Section 266 of the *Canadian Criminal Code*.

[26] Paragraph 118 of the *Immigration and Refugee Protection Act*.

[27] Paragraph 118 of the *Immigration and Refugee Protection Act*.

[28] Paragraph 123(2) of the *Immigration and Refugee Protection Act*.

[29] Although, under section 25.1 of the act, trafficked or smuggled persons can make refugee claims and if these are not successful they, like all failed refugee claimants, can apply to the Minister for status on the basis of humanitarian and compassionate consideration.

criminalization and cross-national collaboration by police and other authorities. This approach is also reflected in the measures implemented by the Canadian state.

This model is the subject of considerable critique by international and national organizations including Human Rights Watch, The Global Alliance Against the Traffic in Women, and the Canadian Council for Refugees as well as by academics on the basis that reactive strategies of repression not only fail to address the root causes of irregular migration which most studies situate in terms of globalization in conjunction with economic and political instability (Kempadoo, 1998; Beare, 1999; De Dios, 1999; Toupin, 2002) but they also obscure the *labour* exploitation of irregular migrants in consumerist host countries (Taylor and Jamieson,1999). Moreover, not only are few resources committed to meeting the specific needs of smuggled or trafficked persons (US State Department, 2003) but, in practice, they are subject to punitive intervention including incarceration (Suthibhasilp, Petroff and Nipp, 2000).

Accordingly there is a counter-discourse which stresses the need for initiatives to address the poverty of supplier countries and the inequitable global distribution of wealth; to establish measures that ensure the human rights including labour rights of all persons; and to protect irregular migrants from punitive actions by smugglers/traffickers *and* by state agencies.

Discussion

Human trafficking emerged as a locus of concern within the international community in the 1990s and resulted in the UN's adoption of the *Convention Against Transnational Organized Crime* as well as two supplementary protocols. Subsequently signatory nations including Canada enacted legislation and policies to address human trafficking and smuggling that has been framed in a very particular way. That being said when we turn to social representation of the issues within Canada we find that while the media periodically present sensational, and sensationalized, cases there are surprisingly few representations and conversations. With this in mind in the coming sections, we turn to the voices of the judiciary and criminal justice experts in order to discern how official and counter discourses are reflected and realized in practice.

Judicial Discourses 1992 - 2002

In order to assess and trace the shifts in judicial discourses on human trafficking and organized crime it was necessary to first identify the sample of recorded cases. Accordingly a thorough *Quicklaw* search using the CJ (Canadian Judgments), CCC (Canadian Criminal Cases), IMRQ (Immigration Law Caselaw) and CRDD (Convention Refugee Determination Division) databanks as well as a manual search of OJ (Ontario Judgements) was undertaken using as extensive list of key words including illegal migrant; snakehead; smuggling and people; traffic and prostitution; prostitution and immigration act; stripper and refugee; prostitution and refugee; organized crime and prostitution; *trafic et femme*; and *traite et femme* (see appendix one for a complete list of searches). The results were considerably less numerous than we had initially anticipated. [30] In total we discovered eight cases of female refugee claimants whose cases centred on questions of trafficking. The scarcity of recorded cases is in itself an interesting finding. Given the attention that 'trafficking in women for the purposes of prostitution' garners in the media, one would anticipate considerably more court cases.

We were particularly surprised to locate just four criminal and two licensing hearings emanating from the 1999 - 2000 Toronto area project code named 'Almonzo'. Unlike Projects Trade and Orphan which targeted massage parlors that employed undocumented Asian women, this initiative focused on adult entertainment parlors that engaged migrant workers from Eastern Europe as erotic dancers. Almonzo received considerable media attention with headlines proclaiming "Sex-slave charges for club operator" (Prete et al, 1999:A1) and "Foreign women forced to be hookers" (Freed and Miller, 1999:B6) and text which indicated that the investigation had "uncovered Canada's pivotal role in the international trafficking of sex slaves" (Jimenez and Bell, 2000: A1). Media reports of 650 charges laid against 200 club owners and 100 foreign dancers (Jimenez and Bell, 2000:A1) notwithstanding, we were unable to locate evidence of convictions. Instead it would appear that in some cases charges where withdrawn,[31] while in

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[30] We also uncovered four criminal court cases of individuals accused of smuggling humans as well as a series of cases involving Chinese nationals, including fifteen youth, who had been smuggled into Canada by 'snakeheads' in 1999. Since these cases did not involve question of prostitution or organized crime and instead were addressed as an illegal migration issue they will not be examined in this report.

[31] R. v. Bazios, recording No. R35 – 34/03.

others the proceedings were stayed on the grounds that the trial delays engendered by the crown's failure to disclose information on Almonzo, violated their right to a trial within a reasonable time as guaranteed by the section 11(b) of the *Charter of Rights and Freedoms*.[32] In the Bakoias ruling, Justice Fairgrieve made reference to an internal Immigration Canada document filed in an earlier case that, perhaps speaking to the subtext of the law enforcement initiative, identified Almonzo as "a joint-forces project designed to put adult entertainment parlors out of business".[33] Unfortunately, we can not shed any further light on this initiative. The Toronto Police Service (TPS) has been named in a major lawsuit flowing from Project Almonzo, consequently, as previously noted, our access to research participants was contingent on agreeing not to discuss this project.

In the following sections we examine the refugee hearings to discern discursive and conceptual shifts, the use of documentary evidence by the judiciary and reflect on the intersection of discourse and practice. Prior to proceeding we must acknowledge the limitations of this approach. Not only were these cases tried under the 1996 *Immigration Act* rather than *IRPA*, it is likely that in many instances irregular migrant sex trade workers are simply deported so that no legal record remains of their experiences.

Judicial Discourse in Cases of Sex Trade Refugees Prior to 1997

Our data bank search produced just two recorded cases of refugee hearings prior to 1997 in which the claimants' participation in the sex trade was a key factor. In both cases the negative board decision was appealed and in one case overturned. Neither case made reference to trafficking or to organized crime. This is particularly notable given that one of the applicants, 26 year old Russian national Svetlana Vorobieva[34] was one of 'Gorby's Girls.' These women were described in Macleans' magazine at the time of their arrest in 1991 as victims of "a Toronto based network that attracted as many as 20 Soviet women ...to Canada with promises of modelling careers" according to the account given by one of the women "they [the agents] always carried guns, which they threatened us with. It was absolute humiliation but I had no choice" (Kaihla, 1991:17). At her 1993 hearing however Vorobieva simply stated that she was "invited to visit Canada by friends of her cousin."[35] Similarly reference to organized crime is

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[32] R. v. Bakoias [2003] O.J. No. 445, 10018101.
[33] R. v. Bakoias [2003] O.J. No. 445, 10018101, para 28.
[34] [1994] F.C.J. No. 1195 IMM-4863-93; T93-01001.
[35] T93-0100, pg 1.

absent in the statements of Justice Cleo Corcoran who noted that the Russian media was sympathetic "towards the plight of the young women so cruelly exploited by two of their compatriots."[36]

The other case, that of Svetlana Litvinov,[37] involved a Ukrainian national who emigrated to Israel to escape the persecution of Jewish citizens in her homeland. There, having been coerced into prostitution, she unsuccessfully attempted to gain the assistance of the police against her 'employer.' She subsequently came to Canada and claimed refugee status based on her "fear of persecution if she is required to return to Israel on the basis of her religion, nationality, political opinion and membership in a particular social group."[38] At the initial hearing,[39] Justice Renuka Sahay, although accepting that the claimant was credible, rejected Ms. Litvinov's claim of persecution based on her membership in particular social group, noting that her persecution was a function of her being:

> used and taken advantage of ....the panel recognizes the extreme emotional trauma she suffered at such a young age. Her problems began when she was lured into the clutches of a ruthless pimp and forced into prostitution. It was a deplorable act by an individual and the claimant should stay away from such a man.[40]

Justice Sahay went on to excuse the Israeli police: "if she received differential treatment from the law it is reasonable to suppose that the claimant, in their eyes, was a common criminal and not a so-called upstanding citizen."[41]

On appeal however Justice Gibson made a point of criticizing the earlier judgement for unfairly placing the onus on the victim.[42] He also ruled that the panel "failed to take into account the totality of the evidence before it and in so doing, erred in law."[43] Basing his decision on the three

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[36] *[emphasis ours]* T93-0100, pg 7. The refugee claim of Vorobieva was based on her fear of persecution, specifically that she would be targeted by the KGB because she possessed information regarding illegal monetary activities uncovered by her father; that she would be criminally charged for prostitution; and subject to violence by her husband. The boards found her story about KGB implausible; felt that she would not be charged with prostitution given the sympathetic nature of accounts in the Russian media; and that the police would protect her against her husband as they had already intervened on behalf of her mother.

[37] Litvinov [1994] F.C.J. no.1061 IMM-7488-93; A92-05295.

[38] [1994] F.C.J. no.1061 IMM-7488-93, para 2.

[39] A92-05295.

[40] A92-05295 pg 13.

[41] A92-05295 pg 13 Moreover, he referred to a 1968 New York Court of Appeal decision that "law enforcement agencies and personnel have no duty to protect individuals from the criminal acts of others; instead their duty is to preserve the peace and arrest law breakers for the general public." (Litvinov [1994] F.C.J. no.1061 IMM-7488-93; A92-05295 pg 10). His use of US cases when in Canada women's right to protection against abusive men was established - if not always practised - is notable.

[42] [1994] F.C.J. no.1061 IMM-7488-93 para 12.

[43] [1994] F.C.J. no.1061 IMM-7488-93 para 18.

categories of 'particular social group' outlined in Canada v. Ward (hereafter Ward):[44]

> 1) groups defined by an innate or unchangeable characteristic;
> 2) groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association and;
> 3) groups associated by a former voluntary status, unalterable due to its historic permanence.[45]

Justice Gibson ruled that the claimant was a convention refugee given her membership in a particular social group as per the first category, specifically:

> new citizens of Israel who are women recently arrived from elements of the former Soviet Union and who are not yet well integrated into Israel society ..... who are lured into prostitution and threatened and exploited by individuals not connected to government, and who can demonstrate indifference to their plight by front-line authorities to whom they would normally be expected to turn for protection.[46]

Judicial Discourse in Cases of Sex Trade Refugees 1997 - 2002

Of the six recorded refugee hearings between 1997 and 2002 two claimants were successful while the remaining four were unsuccessful in their bid to remain in Canada. In this section we first overview the key aspects of the cases prior to analysing the data. Our presentation will parallel the hearings that considered the question of credibility prior to assessing nexus with convention refugee grounds as per section 96 of the *Immigration Act*:

> A person who by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, [and] (a) is outside of their countries and is unable or, by reason of that fear unwilling to avail themselves of the protection of each of those countries.[47]

Accordingly the refugee claimant process entailed considering a) whether the claimants belong to a particular social groups as defined by Justice La Forest in Ward;[48] b) whether there is a well-founded fear of persecution; and c) whether their state of origin or permanent residence is capable of providing protection.

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[44] [1993] 2 S.C.R. 689, para 70.

[45] Justice La Forest of the Supreme Court of Canada explained that "the first category would embrace individuals fearing persecution on such bases as gender, linguistic background and sexual orientation, while the second would encompass, for example, human rights activists. The third branch is included more because of historical intentions, although it is also relevant to the anti-discrimination influences in that one's past is an immutable part of the person" ([1993] 2 S.C.R. 689, para 70).

[46] [1994] F.C.J. no.1061 IMM-7488-93 para 11.

[47] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 3 lays out the consideration as credibility, nexus, objective basis of fear, availability of state protection, availability in internal flight alternatives, agents of persecution and persecution vs. discrimination.

[48] Canada v. Ward [1993] 2 S.C.R. 689, para 70.

Cases where claimants were successful

The first successful case (Y.C.K.)[49] was that of a 21-year old Ukrainian woman who asserted that she had come to Canada under the understanding that she would be employed as waitress; however upon landing and being met by 'Mafia types' she came to the realization that she would be compelled to work in the sex trade. She fled and thereby "narrowly avoided being forced into prostitution."[50] The CRDD deemed her to be a conventional refugee based on her belonging to a particular social group as outlined in the first category detailed in Ward[51], specifically, "impoverished young women from the former Soviet Union duped into the sex trade"[52] and where there was a "reasonable possibility that she would be subjected to persecution at the hands of organized criminals upon her return to the Ukraine" and "a reasonable level of state protection is not available to her".[53] Justice Neuenfeldt relied heavily on documentary evidence to support the decision quoting from, among others, the 1996 *US Department of State Report (section 5, Ukraine)* (on the existence of trafficking), the 1996 *Canadian Paper for the European Union Conference on Trafficking in Women for the Purposes of Sexual Exploitation* (on the participation of organized crime groups), and the 1996 *International Organization for Migration at the EU Conference on Trafficking in Women for the Purposes of Sexual Exploitation* (on the consequences for women of being forced into the sex trade).[54] Moreover, again based on documentary evidence, in this case *The Statement on Post Soviet Organized Crime to the U.S. House Committee on International Relations* (1997), the court accepted that protection by the Ukrainian state was unlikely to be forthcoming given the "ineffectualness of that country's attempts to combat organized crime, and the links between organized crime and the government."[55] According to Justice Neuenfeldt the courts "must consider not only the state's ability to protect but also its willingness to do so."[56] Of note too is that Justice Neuenfeldt defined this as a human rights issue:

> The recruitment and exploitation of young women for the international sex trade by force or threat of force is a fundamental and abhorrent violation of basic human rights. International refugee protection would be a hollow concept if it did not encompass protection of persons finding themselves in the claimant's

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[49] Y.C.K. [1997] C.R.D.D. No. 261 No. V95-02914.
[50] Y.C.K. [1997] C.R.D.D. No. 261 No. V95-02914 para 2, 9.
[51] [1993] 2 S.C.R. 689, para 70.
[52] Y.C.K. [1997] C.R.D.D. No. 261 No. V95-02914 para 31.
[53] Y.C.K. [1997] C.R.D.D. No. 261 No. V95-02914 para 4.
[54] Y.C.K. [1997] C.R.D.D. No. 261 No. V95-02914 para 22, 23, 24.
[55] Y.C.K. [1997] C.R.D.D. No. 261 No. V95-02914 para 34.
[56] Y.C.K. [1997] C.R.D.D. No.261 No. V95-02914 para 33.

predicament.[57]

The second successful case (G.V.P.),[58] although subject to a dissenting decision, was also framed as a human rights issue; however the circumstances and justifications were somewhat different. This case involved a 22-year old citizen of Thailand who had been in debt bondage in France and, prior to resolving her financial commitment, was forced to return to Thailand after which she entered into further debt by coming to Canada. In Canada, after having been charged and sentenced to one year probation, she applied for refugee status[59] and was found by Justice Bousfield to be a convention refugee on the basis of "her well-founded fear of persecution by reason of her membership in a particular social group - women and/or former sex trade workers."[60] In his justification, Justice Bousfield employed a liberal definition of social group as per the dissenting decision of La Forest in Chan v. M.E.I,[61] that the claimant's case is consistent with the first category of Ward, the "perspective harm is in some respect related to the innate characteristic of the claimant …. that this claimant is a woman is a major cause of her predicament; not the only cause but a major one, nonetheless."[62] He then strengthened his argument by identifying former sex workers, as a group, as consistent with the third category of Ward "groups associated by former voluntary status unalterable by their historic permanence."[63]

This case is unique among the sample not only for its inclusion of the third category of Ward but also for the sociological insights that inform the ruling. Justice Bousfield wrote:

> sex trade workers are an associated group. Even if they do not choose to associate together, sex trade workers in almost any society, are easily identified and associated in the eyes of others, most notably the police, as a particular group of people. Moreover, as the world's oldest profession, sex trade work has historic permanence. It has also been historically stigmatized and victimized the world over.....The fact that the claimant made an individual choice to become a sex trade worker and remain in the sex trade for some time cannot be a reason to find that the ground of membership to a particular group does not apply....people join unions and the sex trade for the same reasons - to make, improve and protect a living.[64]

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[57] Y.C.K. [1997] C.R.D.D. No.261 No. V95-02914 para 32.

[58] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186. The dissent written by Justice Milliner will be considered later in the analysis.

[59] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 7.

[60] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 28.

[61] [1995] 3 S.R.C. 593. Notably Joel Bousfield's speaks against discrimination when he notes "it would be wrong of me to adopt a narrow definition of social group because I find prostitution to be immoral, distasteful or undesirable" (G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 23).

[62] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 24.

[63] Canada v. Ward [1993] 2 S.C.R. 689, para 70.

[64] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 26, 27.

Similar to Y.C.K., though quite distinct from the cases that were negatively decided, is the interpretation of the documentary evidence. Justice Bousfield cites the *U.S. Department of State, Thailand Country Reports on Human Practices for 1997* which indicates that although prostitution is illegal it flourishes often with the support of the government and police. He noted that documentation and the request for information both confirmed that as a sex trade worker she is liable to be denied the assistance of the police.[65] Moreover in his comments he made reference to the 'Project Trade' finding that women owed $50,000 in debts noting that this was "corroborated by an Asian organized crime specialist with the RCMP's Criminal Intelligence Service."[66] He also accepted, on the basis of documentary evidence and the testimony of the claimant, that the failure to repay the incurred debt put both the woman and her family at risk.[67]

Cases where claimants were unsuccessful

We now turn our attention to four post-1996 cases where claimants were unsuccessful in their bid for convention refugee status, and the dissenting decision in G.P.V.[68] in order to reflect on how these cases were either different and/or differently defined, compared to the cases detailed above. Given the similarity of these failed cases they can be presented collectively.[69] All of the claimants were female Thai nationals between the ages of 24 and 38, who claimed refugee status on the basis of their well-founded fear of persecution by reason of their membership in a particular social group, specifically, 'single women involved [or alternately forced] into the sex industry with an outstanding debt bond.'[70] All respondents cited economic need as their reason for coming to Canada. Two of the five claimed to have been duped while the remainder were aware of the nature of the employment. All but one claimant noted the engagement of some form of organized crime.

The hearings first considered the question of credibility prior to assessing the nexus with convention refugee grounds as per the *Immigration Act*. Two of the five women (P.Y.M. and

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[65] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 25.
[66] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 16, 17.
[67] Response for Information Request THA30949 (G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 18)
[68] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186.
[69] The cases are: H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677; P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933; N.W.X. [1999] C.R.D.D. No.183 No. T99-01434 ; D.J.P. [1999] C.R.D.D. No 155 No. Y98-06446; and the dissenting decision in G.P.V. [1999] C.R.D.D. No. 298 No. T98-06186.
[70] D.J.P. [1999] C.R.D.D. No 155 No. Y98-06446 also claims 'suffering at the hand of former spouse.'

H.D.O.) were deemed not credible by the panels assessing their claims. In both cases this negative evaluation was principally based on discrepancies between the accounts presented in their written statements, interviews with immigration officers and their Personal Information Forms (PIF). In addition, in one case the delay in applying for refugee status was considered by the panel as "while not decisive.....distracts from the claimant's credibility."[71]

All panels deemed there to be no nexus between the conventional refugee grounds and the particulars of the cases under consideration. The decision was based on, as already noted, if a) claimants belong to a particular social group;[72] b) is there a well-founded fear of persecution; and c) is their state capable of providing protection. Turning to the first area of consideration, Justice Wakim was the most dismissive asserting:

> Counsel's definition of a particular social group requires one to do mental gymnastics in order to try and fit the particular social group in one of [the] three categories defined by Ward. In my opinion, Ward was not intended to cause a tribunal to jump through hoops in order to qualify an individual to belong to a particular social group.[73]

Notably none of the justices considered the applicability of the third category of Ward[74] as Justice Bousfield had done in G.V.P., instead focusing exclusively on the first category. All ruled that the claimants' profiles were inconsistent with this category drawing attention to the 'is versus does' distinction made in the Supreme Court ruling. Here the justices specified that prostitution is not an innate and unchangeable characteristic; rather it is something the women *did* rather than who they *are*: "it is the membership in the group which must be the cause of the persecution and not the individual activities of the claimant."[75]

The 'is versus does' distinction also emerged in questions of persecution. Justice Morrish, in the evaluation of H.D.O., in spite of the same documentary evidence that is accepted by other justices as indicating the opposite, stated:

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[71] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para13. In P.Y.M. delay is read as speaking against her subjective fear /P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 19).

[72] Canada v. Ward [1993] 2 S.C.R. 689, para 70.

[73] P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 16.

[74] Canada v. Ward [1993] 2 S.C.R. 689, para 70.

[75] N.W.X. [1999] C.R.D.D. No.183 No. T99-01434 para 10. This argument is also made in H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 and in the dissenting decision in G.P.V. [1999] C.R.D.D. No. 298 No. T98-06186 In addition the justices in P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 and in the dissenting decision in G.P.V. [1999] C.R.D.D. No. 298 No. T98-06186 also rely on "Women Refugee Claimants Fearing Gender-Related Persecution: Guidelines Issued by the Chairperson pursuant to section 65(3) of the Immigration Act" (1996).

> There is no reliable evidence that the claimant faces a serious possibility of persecution by the leaders of the sex ring if returned to Thailand... the panel finds that the claimant does not have a well-founded fear of persecution in Thailand and there is not a serious possibility that the claimant would be persecuted should she return there.[76]

It is in relation to persecution that questions of organized crime surfaced. In a number of cases the justices readily accepted both the participation of organized crime syndicates and claimants' fear but dismissed these as the basis of the claim. Justice Sotto noted:

> the claimant is a victim of criminality in the highest degree. Therefore her fear of repercussions from those who still want to target her because of her outstanding 'debt-bond' while reasonably justified is not grounds for refugee status..... the panel determines that victims of organized crime do not constitute a particular social group.[77]

Similarly Justice Morrish stated:

> The panel finds that the claimant has been exploited by Mafia groups which the panel considers to be organized crime. As repeatedly established in case law victims of crime cannot generally establish a link between their fear of persecution and one of the five grounds in the definition.[78]

Three of the justices turned to the last, and (in light of the above-detailed lack of nexus) auxiliary, question imbedded in the claim - the ability of the state to protect claimants.[79] Here the rulings were somewhat confusing. On the one hand they made reference to *U.S. Department of State, Thailand Country Reports on Human Practices* for either 1997 or 1998 going so far as to note that "prostitution is illegal in Thailand although it flourishes..... documentary evidence states that there are credible reports that police, military personnel and government officials are involved in trafficking schemes."[80] In spite of this, the panels nonetheless concluded that claimants *did* have the protection of the state[81] citing a range of diverse factors including the illegality of prostitution in Thailand, the existence of Non-Governmental Organizations (NGOs) that provide research, occupational and vocational training; the passing of stringent anti-

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[76] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 24,26.
[77] D.J.P. [1999] C.R.D.D. No 155 No. Y98-06446, para 11, 12.
[78] N.W.X. [1999] C.R.D.D. No 183 No. T99-01434 para 13.
[79] In N.W.X. and D.J.P. the question is not subject to discussion Justice Sotto does consider the ability of the state to protect the claimant from her former spouse but does not consider the question of protection from the organized crime groups that he, as noted above, accepts victimized her (D.J.P. [1999] C.R.D.D. No 155 No. Y98-06446, para 17, 18).
[80] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 21. See also P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 20.
[81] In H.D.O. Justice Morrish dismisses the likelihood of persecution rendering the question of state protection mute (H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 24).

trafficking laws and that trafficking in women is considered to be a serious problem by the international community.

Discussion

Prior to 1997 refugee courts framed the victimization of women in the sex trade as perpetuated by individual(s). Absent is any mention of debt-bondage, organized crime or trafficking. By 1997 trafficking women into North America for the purposes of prostitution by organized crime had emerged as an issue of concern. Its profile bolstered by the release of key reports by the U.S. State Department, the United Nations and Human Rights Watch and the considerable media attention afforded the issue.[82] While this discourse did facilitate the emergence of a new category of refugee claimants, 'single women involved [or alternately forced] into the sex industry with an outstanding debt bond,' it did not appear, as one would anticipate, to result in greater responsiveness on the part of the judiciary to irregular migrant sex trade workers. In fact, while in 1994 Justice Gibson[83] not only readily accepted Ms. Litvinov's status as victim but positioned his decision as informed by her vulnerability, later justices were considerably more circumspect and, while acknowledging the broader social context of the women's lives base their rulings on individual characteristics. In the following section we reflect on the themes that emerged, specifically the interconnected problems of a conservative reading of documentary evidence that defines claimants as illegal migrants as opposed to trafficked victims and the lack of judicial sensitivity.

In the pre-1997 cases, the focus was on the claimants' accounts although supported by United States Department of State Documents: *Country Reports on Human Rights Practices for 1992, Israel and Occupied Territories* in Litvinov[84] and in the case of Vorobieva, *The Country Reports on Human Rights Practices for 1992*.[85] By contrast, from 1997 onward documentary evidence (both governmental and non-governmental) and, in a number of cases media articles, appear to be integral to the claims. In all but one (N.W.X.) of these latter cases documentary evidence was

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[82] See Bruckert and Parent (2002).
[83] [1994] F.C.J. no.1061 IMM-7488-93.
[84] Litvinov [1994] F.C.J. no.1061 IMM-7488-93; A92-05295.
[85] [1994] F.C.J. No. 1195 IMM-4863-93; T93-01001. Russian media accounts are also presented but to support the claim that the claimant would be classified as a prostitute in Russia. This claim is summarily dismissed by the justices who note " some Russian newspaper articles are actually sympathetic to the plight of 'Gorby's Girls" ([1994] F.C.J. No. 1195 IMM-4863-93 para 7; also T93-01001 pg 7).

commented upon and was employed to support panel decisions. This is even the case for Justice Wakim who dismissed this evidence as, "interesting and instructive, is not binding on the Refugee Division. Decisions are based on facts and Canadian law."[86]

This being said the employment of the documentary evidence is uneven. On the one hand none of the written decisions explicitly challenged the validity or the assertions in the documents and thereby signify the judiciaries' awareness of the problem and suggest that they agree or at least recognize that the trafficking of women for the purposes of prostitution by organized crime is an issue of concern.[87] On the other hand, in spite of having access to, and in fact employing the same documentary evidence,[88] justices who decided against the claimants defined applicants as outside the parameters of the discourse. More specifically the justices reified the dichotomy of trafficked women and smuggled irregular migrants, defining the claimants as the latter. We see this in the rulings of Justices Wakim (P.Y.M.) and Milliner (G.V.P.) which, without challenging the existence of organized crime groups and their participation in trafficking, dismiss these dynamics as applicable in the cases before them. Justice Milliner went so far as to note: "in spite of the large number of prostitutes who have a debt-bond, the majority are not kept under physical constraint. Although some women are forced into prostitution, the claimant testified that she entered the profession voluntarily."[89] Similarly Justice Morrish dismissively rejected the claimant's assertion that she had been threatened by the ring organizer's husband as "simply added for embellishment at the hearing."[90] Here we might consider that the dramatic presentation in the media of 'sexual slavery' may actually work to the disadvantage of the majority of irregular migrant sex trade workers whose situations or characteristics position them as outside of the discourse and hence outside of protection.

The definition of woman as smuggled migrants and therefore not victims of trafficking is

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[86] P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 23.

[87] Even in N.W.X. although not making reference to documents, Justice Morrish clearly acknowledges that the claimant was trafficked and the victim of organized crime.

[88] While Justice Morrish in N.W.X. ([1999] C.R.D.D. No.183 No. T99-01434 makes no reference to documenta y evidence, in all the other cases (both positive and negative the justices make reference *to U.S. Department of State, Thailand Country Reports on Human Practices* for either 1997 or 1998 and *Synopsis of Issues. Canada's Paper for EU Conference on Trafficking in women for Sexual Exploitation.* In addition with the exception of D.J.P. and Y.C.K. , all justices make note of Human Rights Watch reports.

[89] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 44.

[90] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 11. This is notable given that the media put considerable emphasis on the connection between the alleged sex ring and the 'Big Circle Boys' (see for example Hess, 1997).

apparent when the question of 'debt bondage' is defined as simply the repayment of debt[91] or "repaying her debt for travel expenses to Canada."[92] Moreover the deception of recruits is dismissed as "[i]t is understandable that XXXX may have misled the claimant as to the time it would take to pay off the debt."[93] Along the same lines, the existence of Thai NGOs to combat trafficking of women is interpreted as evidence of governmental condemnation of the practices. For instance, in P.Y.M. Justice Wakim first notes that there are "credible reports that police, military personnel, and government officials are involved in trafficking schemes" yet proceeds to state that there is also a NGO *Voices of Thai Women: Foundations of Women* engaged in research and lobbying. From that one could readily conclude the situation is serious enough to cause the emergence of an advocacy group however the justice instead concluded that there "is no reliable evidence that Thailand is incapable of precipitating [*sic*] its nationals."[94]

At other times the decisions are simply inconsistent with the documentary evidence. For example, in D.J.P., Justice Sotto notes, based on *U.S. Department of State, Thailand Country Reports on Human Practices for 1998*, that prostitution is illegal in Thailand; that the penalties for trafficking women have been stiffened; that police powers of search and victim assistance increased in 1997; that the issue is condemned by the international community and quotes United Nations documents that stress the seriousness of the issue.[95] He nonetheless ruled that "there is not a reasonable chance or serious possibility that the claimant would be persecuted if she were to return to Thailand."[96]

The construction of trafficked victims/migrant workers as mutually exclusive categories is perhaps most telling in the apparently extra-judicial question of whether or not the woman knowingly participated in the sex trade. As already noted, in three of the five cases claimants acknowledged that they willingly came to Canada to labour in this sector; in two of those cases (the dissent in G.V.P. and P.Y.M.) the written decision makes a point of distinguishing the case from that of Y.C.K. (detailed above) stating that "I do not feel that this [the positive CRDD decision] is applicable to the current claimant. In CRDD V95-02904 the claimant was duped into coming to Canada by organized criminals, and she did not know that she was to participate in

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[91] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 9.
[92] P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 15.
[93] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 9.
[94] P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 20.
[95] D.J.P. C.R.D.D. No 155 No. Y98-06446 para 9 -11.
[96] D.J.P. C.R.D.D. No 155 No. Y98-06446 para 19. This reasoning is reproduced by Justice Milliner in her dissent of G.V.P. ([1999] C.R.D.D. No.298 No. T98-06186 para 36).

prostitution."[97] In the other cases it is noted that the "claimant voluntarily came to Canada for the purposes of participating in prostitution."[98] We would suggest that on the face of it the question of whether or not a woman came knowing she would be engaging in sex work, or was 'duped,' does not alter the questions salient to the refugee hearings - her membership in a particular social group and her fear of persecution. Certainly this is the point made by Justice Joel Bousfield when he asserted that: "if defence of human rights is a paramount concern, the analysis should not get hung up on the fact that she chose to get into and remain in the sex trade for some time of her own free will."[99] That being said the attention accorded this question by the panel members is somewhat surprising and may perhaps speak to definitions of victimization and even moral judgments. Sex trade workers who are not forced, threatened or tricked into the trade are defined as culpable. It also contradicts the research evidence which indicates that women who freely come to the country to work in the sex trade may nonetheless be trafficked (Wijers and Lap-Chew, 1997:36).

Finally the question of human rights is noted in the documents and highlighted in both of the successful post-1996 cases because "the underlying themes of defence of human rights and anti-discrimination are the paramount consideration in determining a claimant's membership in a particular social group."[100] The question of human rights is however notable in its absence in the unsuccessful cases.

Sensitivity

Perhaps the most striking feature in the negative decisions is the lack of sensitivity to issues of culture, class and the experiential reality of sex trade workers coupled with the judiciaries imposition of their own world view without any apparent appreciation that theirs is the perspective of privileged westerners. Confronted with young economically marginal Thai women who choose to work in the sex trade within the context of limited options and the potential of abject poverty for themselves and their families, the justices stressed that claimants

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[97] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 4; see also P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 23.

[98] In one of the cases where the claimant presents herself as duped the panel deemed her assertion not to be credible (H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 24).

[99] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 27.

[100] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 22.

came *voluntarily* to Canada to work as prostitutes.[101] In G.V.P. for example Justice Milliner relates questioning of the claimant to ascertain whether she left for fear of persecution or for economic reasons and noted that the claimant acknowledged there was work but not "good jobs."[102] Interestingly, in the one case where the claimant had considerable education and work experience outside of the sex trade this was highlighted: "the panel cannot help but note that given her education and work experience, the claimant would be capable of obtaining other types of employment."[103]

The same insensitivity to the economic reality of others emerged when the justices in H.D.O. and P.Y.M. were highly critical of the claimants who applied for refugee status after being advised by the Thai consulate that they would have to repay repatriation costs. In H.D.O. the claimant's assertion that she "turned down the offer because she had no idea how she could repay the government,"[104] a statement that may well reflect the simple truth for an economically marginal woman in Thailand, is not only ignored but constructed as speaking against her credibility. Similar insensitivity, in this case to the situation of non-English speakers, is reflected in the panel's rejection of one claimant's assertion that language was a barrier on the basis that this individual had studied English in Singapore for two years.[105] Given the complexity of the Canadian justice and refugee systems one is hard pressed to perceive how this language training would equip her to navigate the systems even with the assistance provided by a NGO.

This lack of sensitivity to culture and the imposition of panel members' own understanding is also apparent when a claimant's failure to make reference in her PIF to shock upon realizing that her job would entail a sexual component, is used as evidence of her lack of credibility. According to Justice Morrish, one would expect she would have made mention of her dismay had she "truly been unaware of the full implications of the work required."[106] The panel

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[101] See N.W.X. [1999] C.R.D.D. No.183 No. T99-01434 para 13; H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 20; P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 24; G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 44. The only case not noting this is of course D.J.P. [1999] C.R.D.D. No 155 No. Y98-06446.

[102] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 33.

[103] N.W.X. [1999] C.R.D.D. No.183 No. T99-01434 para 10.

[104] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 12. See also P.Y.M. P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 19. Economic questions aside, the claimants' concerns were warranted. Two of the women were repatriated were arrested and charged upon their arrival in Thailand (Suthibhasilp et al. 2000:37).

[105] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 12. See also P.Y.M. P.Y.M. [1999] C.R.D.D. No.163 No.U98-01933 para 12.

[106] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 8. The implausibility of her claim is seen as undermining her credibility. In D.J.P. the panel, contrary to the findings in Y.C.K. detailed above, concluded that "single women who have been forced into prostitution do not constitute membership in a particular social group." (D.J.P. C.R.D.D. No 155 No. Y98-06446 para 9).

concluded that it "simply does not find it credible that the claimant was unaware that [her job] would also involve sexual intercourse."[107]

Not only are the panels insensitive to the question of economic marginality, they are unwilling to acknowledge the implications of participation in the sex trade on workers' lives. This gets played out in a number of ways. The focus on the 'is versus does' distinction ignores the ongoing stigma experienced by workers - once a woman works in the sex trade her ascribed identity is that of an ex-sex trade worker.[108] Moreover since there is no acknowledgement of the victimization and stigmatization of current and former workers there is also no consideration that the claimants might be members of a particular group according to the third category of Ward "groups associated by former voluntary status unalterable by their historic permanence."[109] Such an understanding is articulated by Justice Bousfield[110] and supported by sociological analysis and first person accounts that verify the continued marginalization and victimization of women even after they have left the trade (Bell, 1987).

In addition, as Justice Neuenfeldt noted in Y.C.K., the court "must consider not only the state's ability to protect but also its *willingness* to do so."[111] This is exactly what Justices Bousfield and Gibson did. By contrast, the focus in all unsuccessful cases that considered the question of the state's protection was on the *ability* of the state to protect the claimants. Had they considered the issue of willingness they might have concurred with the US State Department[112] and Justice Bousfield, that their ability notwithstanding, "police are not likely to protect her precisely because she is a sex worker. If anything the police are more likely to assist her former bosses than assist her if they find out she is a sex trade worker."[113] Instead the claimant's assertion that no police protection would be forthcoming since nothing happens in Thailand in work like this" is summarily dismissed by Justice Milliner: "as imperfect as the law enforcement may be in Thailand, I do not find that the claimants opinion represents a denial of state protection."[114] This

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[107] H.D.O. [1999] C.R.D.D. No. 116 No. T98-07677 para 24.

[108] Goffman (1963) suggests that even when repair to identity "is possible what often results is not the acquisition of fully normal status but a transformation of self from someone with a blemish to someone with a record of having a blemish removed (Goffman, 1963:9). The common linguistic designation of *ex*-prostitute speaks to an understanding that participation in the trades legitimates continued assumptions of immorality.

[109] Canada v. Ward [1993] 2 S.C.R. 689, para 70.

[110] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 26, 27.

[111] *[emphasis ours]*, Y.C.K. [1997] C.R.D.D. No.261 No. V95-02914 para 33.

[112] *Department of State, Thailand Country Reports on Human Practices for 1997.*

[113] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 25.

[114] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186 para 47.

assertion entails not only the dismissal of a credible claimant's insights, but, not incidentally, necessitates that the justice ignore the evidence in the very documents she cited earlier.

In summary it would appear that there has been limited engagement on the part of the judiciary on the issue of trafficking. In particular there has been a marked lack of criminal court cases and even fewer convictions. For the most part the issue has been dealt with through refugee courts whose decisions framed the claims made by irregular migrant sex trade workers from Asia principally in terms of irregular migration. Moreover most of the refugee court decisions are characterized by a lack of sensitivity to the push and pull factors that engender irregular migration, to issues of Asian culture, to economic marginality and to the reality of sex trade workers' lives. This is particularly notable in light of the judiciaries' access to, and acknowledgement of, the official and counter discourses identified in section one. In the coming section we see a remarkably different conversation emerging not only from sex trade worker advocates but also from criminal justice professionals who, in spite of their institutional location and limited reliance on documentary discourses, are sensitive to the above-noted concerns and situate the issues within the broader context of social, economic and cultural practices and processes.

Professional Discourses

In this third section of the report we turn to the expert voices of police, criminal justice and sex trade worker advocates.[115] Not surprisingly, given that our institutional and personal location necessarily shapes our understanding and focus, two broad discourses emerged: that of criminal justice professionals and that of sex trade worker advocates. The former framed the issues as problem of criminal justice, albeit ones that were frequently situated within a broader context of inequality and labour. The advocates, by contrast, centred on the issue of the sex trade.[116] In addition there were a number of points of conversion and contention between and within discourses. Accordingly the decision was made by the authors to juxtapose the discourse, knowledge, understanding and perceptions of advocates against that of the criminal justice professionals in order to allow the issues and debates to emerge and provide a more balanced view while remaining true to participants' representations.

This section will summarize and provide an overview of insights at the same time as it seeks to capture the range of perspectives expressed by participants. After detailing the methodological approach, the findings are presented in terms of broad domains: the sources of research participants' knowledge; transformation of smuggling practices; the relationship between organized crime and irregular migration; the intersection between poverty, culture and irregular labour migration; irregular migration and the sex trade; and proposed strategies to address the issue. The final part of this section is a discussion that highlights key issues that emerged and considers them in relation to some recent research findings.

Methodology

The methodological approach is embedded in the well-established social science tradition of respecting the voices of experience and attending to the knowledge of participants. In total ten

[115] As previously noted we were not given access to police officers involved in Project Almonzo; hence the following focuses exclusively on Asian migrants.

[116] Although with different points of departure which reflect the well-entrenched feminist debate - two advocates conceptualized the sex trade as sexually exploitative while the third framed the issues in terms of labour.

directed interviews (see appendix two for interview guide) were conducted in Ottawa and southern Ontario between April and July 2003. Participants were furnished with the questionnaire, consent form and proposal prior to the interview. All participants, save one, agreed to have the interview tape recorded. The verbatim transcripts of the interviews (or notes in the case where permission for audio taping was not granted) were forwarded to the participant upon transcription.[117] The reviewed transcripts were then subjected to analysis based on first a horizontal and then a vertical reading.

We were particularly fortunate to be able to interview professionals from different institutional levels and areas of expertise, all of whom had extensive and wide-ranging experience in the area. More specifically we interviewed one crown attorney[118] crown counsel for a Crown Attorney's Office located in Southern Ontario. We also interviewed three RCMP members: An inspector, who has been involved in the investigation of organized crime since 1992 and for the last three years, inspector in charge of immigration stationed in Milton, Ontario; a sergeant, a program analyst for the RCMP Immigration and Passport branch with twenty years of experience in immigration, seven of which were specifically in human smuggling; and a corporal, an RCMP officer who has worked in the area of Asian organized crime since 1990 first as a field officer for the Combined Forces Asian Investigative Unit and more recently as a member of the Combined Forces Special Enforcement Unit. His current responsibilities include handling informants and project reviews on Asian organized crime.

We also spoke with three officers from the Toronto Police Service (TPS): a detective constable, an affidavit specialist who has been seconded to the RCMP Combined Forces Special Enforcement Unit for eight years until his retirement in early 2004; a staff sergeant, who between 1990 and 2001 was involved in Asian organized crime investigations first as a constable and then as a detective in the Combined Forces Asian Investigative Unit; and a sergeant, recently transferred to Intelligence Support of the Toronto Police Services Operations Section and with fifteen years experience as a detective constable in the Combined Forces Asian Investigative Unit.

We were also able to interview three women who work with undocumented migrant sex trade

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[117] This is an increasingly standard approach that allows interviewees to clarify or correct information as well as providing them with the opportunity to delete material that, on reflection, they preferred not to put in the public domain.

[118] Participants are identified by title only.

workers: a social worker with an extensive background dealing with battered women who is employed by an organization that assists adult female sex workers, a number of whom have been undocumented migrants; a counsellor working with adult sex trade workers, including undocumented workers, who also has extensive experience counselling battered women; and a long time sex trade worker advocate, and herself a sex worker, who collaborates with a number of national and international sex trade worker rights organizations. She was also a founding member of the now disbanded Toronto Migrant Sex Workers' Advocacy Group, a coalition of individuals who organized to work on behalf of, and to respond to the needs of, undocumented migrant sex trade workers.

Sources of Knowledge

In order to document the sources of research participants' knowledge of issues surrounding smuggling, organized crime and irregular migration, participants were asked "How did you familiarize yourself with the issues after you were assigned to this area? For example: With whom did you speak? What documents did you read?" By far the most frequent source of background information for the criminal justice professionals was police officers with experience in the field, liaison with other police forces, documents produced by police forces outside of Canada, and policing conferences and courses. The three research participants who had worked as field officers, the corporal and both sergeants all noted the importance of talking to parties involved in illicit smuggling, including agents: "To be an Asian crime expert? You can't read about it. You have to work in it. You have to walk the same streets they walk.... It's the talking to the people, especially the gang members, the people they're involved with" (staff sergeant, TPS). Similarly, for the social worker and the trade worker advocate, it was "on the job training. I feel that the best place to learn is right from the client's mouth".

Several interviewees had sought out additional sources of information. The trade worker advocate also prioritized listening to the stories of women, read academic analyses, reviewed legislation and examined United Nations documents. The corporal took upon himself to research the area, reading books and other materials; one sergeant reviewed the United Nations documents; the inspector noted that it "is an ongoing, continuous learning curve" and had reviewed, among other things, the documents produced by the US State Department, the United Nations and Human Rights Watch. He expressed some reservations noting that "I find a lot of the stuff that comes out of the United States to be tainted or self-serving.... [and much of the

other literature] is very focussed on the European model." He also suggested that there was a dearth of Canadian material "there's not a lot, really. What's the social fabric made of? And what causes this? There's nobody who really drills down."

Although operating outside of documentary information it should be noted that all three field officers brought to their analysis insights into Asian culture and the intricacies of Asian-Canadian communities. In the cases of both sergeants, who are both natives of Hong Kong, this was presumably strengthened by their cultural background, linguistic competencies and their (greater or lesser) insider status within Toronto's Asian community.

Notably, unlike the majority of Canadians whose understanding of criminal justice issues is greatly influenced by media accounts (Roberts, 1995), the media appear to have little impact on the perceptions of either criminal justice professionals or advocates in the field. Participants either made no comment or indicated that they felt the media to be an unreliable source that sensationalised issues and "play everything. They've got to sell papers" (detective constable, TPS).

The Emergence of a 'Problem'

As previously noted, in the 1990s migrant smuggling emerged as a Canadian "social problem" in the sociological sense of an issue that is called a problem whether or not it is actually more problematic (Spector and Kitsuse, 1973). This begs the question: What, if anything, changed? The following section pieces together the information regarding the trajectory provided by research participants, particularly the three field officers who were speaking from their personal experiences and observations.

Although organized crime groups appear to have been operating in Toronto for some time,[119] the profile changed in the early 1990s when American-based Vietnamese gangs emerged in

[119] In the 1970s a joint forces operation (including, at that time, the Metropolitan Toronto Police Services, the Ontario Provincial Police, and the RCMP) was established when police started to receive complaints by Chinese students studying in Toronto of extortion by individuals from Hong Kong with a Triad (Asian Organized Crime) background. One sergeant explained that "they were preyed upon by this crime group because these Hong Kong people know what that society was, black society. So when they mention 'I am a member of, whatever society' the student would realise it is a criminal group and is intimidated by them, they will comply to their demand for money. It won't work to a local born Chinese, because a local born Chinese doesn't know what that society could do to them."

Toronto's Asian community and engaged in criminal activities, including home invasions, robbery and murder.[120] These groups were involved in the sex trade to the extent that they "brought women in for massage clubs. But that would be five or six women a year or so" (corporal, RCMP). They also adapted to market opportunity. For example, before 1994 "when the first casino opened.... the Vietnamese gangs pretty well controlled the gambling industry in the Asian community by running gaming houses and doing the protection and the loan sharks' debt collection.... [now] similar guys who used to run gaming houses were now running loan shark operations at the casinos" (corporal, RCMP).

According to our interviewees, during the same period other Asian groups were also appearing in Toronto. In contrast to the structured Vietnamese gangs, these were loose affiliations of individuals who shared geographic origins and sometimes pre-migration friendship networks - the Fugianese,[121] the Hong Kong Triads and the Big Circle Boys. The corporal explained that "we call them Big Circle Boys because they're from a certain area in China, they act a certain way..... So, when we're profiling the person, we're not necessarily looking at a gang, like the gangs from 1992. That was easy because they gave themselves names. They called themselves the *Born to Kill* or the *Ghost Shadows* or something like that. And they would tell you when you interviewed them who their boss was."

The activities of these latter associations, and the alliances within them, were fluid as they responded to emerging markets and opportunities – credit card fraud, counterfeit money, extortion, and the importation of narcotics. These were the groups that collaborated to organize the boatloads of undocumented immigrants from the Fugian province in China to Canada.[122] The corporal explained that the Fugianese smuggled "because that's what they were able to do. They lived in a place where every time they went home people asked them to get these thirty people out. And they had the means of doing that. [Because] the Big Circle Boys [who were organizing heroin importation] in Vancouver had fronted money in Vancouver for the aliens to be housed and fed and whatever other expenses. That money was to be paid back in China to the Big Circle Boys by the Fugianese boys who were doing alien smuggling." In short human smuggling "was something they took a shot at because the market was right for them to make some money" (corporal, RCMP). To summarize, while the smuggling of undocumented individuals from Asia

[120] This appears to have been a particularly violent time in the community.
[121] From the Fuzhou region, the place of origin for many recent migrants.
[122] Many of the migrants were essentially in transit to their destination in the United States most often New York.

to Canada is not new,[123] in the late 1990s there appears to have been a convergence of market,[124] opportunity and motivated enterprising individuals which resulted in smuggling of aliens on a much larger scale[125] than previously had been the case.[126]

Organized Crime and Irregular Migration

The sex trade advocates we interviewed where not only hesitant to draw conclusions about the intersection between organized crime and irregular migration but did not conceptualize the issue in these terms. They drew attention to definitional difficulties, the subtext of the term and the questionable focus of the discourse. More specifically the counsellor noted that:

> often the background of the women, and the connections they have with the men in their lives, if they are organized criminals, they're very complicated, they're very long-standing, and I can't just say to a lady, 'oh, well, you're with these guys, you'd better just leave.' They've been with them, some of them, for years, since they were kids, right? So it's very complex.

The social worker highlighted the importance on focusing on exploitative practices noting "when you fear for your own life and you fear for your family's safety back home, I think that's organized crime." The sex trade advocate noted that the term 'organized crime' is a powerful image-evoking lexicon that "encourages support for law enforcement from the public, from the taxpayers." She also spoke of migration patterns which did not seem to involve organized crime syndicates:

> None of the women were coming through so-called organized crime syndicates. In fact, if anything, the networks seemed very loosely organized, if they existed at all. So, in the country of origin, many of the women hooked up with an agent through a friend who'd already traveled to work in the business, or through a

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[123] In the late 1980s individuals who were awaiting refugee hearings and had paid smuggling fees to agents came to the attention of the Toronto police when they were arrested for minor property crimes.

[124] The nature of the market and the conditions which function as emigrating 'push' factors will be discussed later in the report.

[125] This suggests that this may represent a *real*, as opposed to an *apparent*, increase. This is supported in the literature which also highlights the importance of the political changes occurring in China at this time (Chin, 1999; Zhang and Chin, 2001).

[126] In addition to the smuggling of undocumented workers by organized crime that will be further developed in the next section, a number of the criminal justice professionals highlighted the appearance of a different sort of agent that will not be examined in this report but should nonetheless be noted: immigration consultants both in Canada and abroad. The inspector explained:
There are some legitimate immigration consultants that are paralegals. You know, they charge a fair dollar, not exorbitant. They're bona fide immigration consultants.... There's a lot of them that say, "hey, give me five thousand dollars, I'm gonna get you status." They have no intention of really doing anything, they rip you off blind. There are other ones that say 'give me five thousand dollars, I'm going to help you create a story, a false story that I know is going to work on some sympathetic immigration officer.

> family member..... oftentimes the agents didn't seem to have that direct a relationship with the employers out here. And so any organization that did exist seemed to be somewhat sporadic and loose.

She made a further comment based on her experience advocating on behalf of irregular migrant sex trade workers. She suggested that even when organized criminal groups are involved in aspects of the trade "I'm not sure that we can jump from that to an automatic assumption that this is something inherently negative or negative to the workers involved. ....I think that a lot of women will say that they get more protection and have more respect and greater rights within those structures than they might in society at large."

By contrast police and criminal justice professionals, perhaps not surprisingly, did not identify as a problem the concept of organized crime and consistently employed the *Criminal Code* definition of three or more persons who are principally engaged in criminal activity for material gain. [127] From this point of departure, the process of bringing people into Canada irregularly is an *organized* crime activity since it necessitates a:

> certain co-operation.... there is not one person who can do this. It is a group of people who do it, who make this arrangement. So it would be organised crime.... They have the connections there. It's just like when you're doing a legitimate business, you have connections in Thailand, you have connections in the States. So it's normal that you'll do business" (sergeant, TPS).

The extent to which these are the permanent highly-structured hierarchical networks traditionally associated with organized crime, is unclear. While, as previously noted, groups may be based on familiar or cultural or social associations, they may also be factions of people who are involved in different criminal activities and without permanent affiliation. They may be cross-national shifting alliances of convenience "they are not necessarily a gang or an organised crime group that has a structure.... They're simply four or five guys involved in criminal activity, and while.... you and I and three other people are doing a deal together I have another deal going with three or four other people" (corporal, RCMP).[128] As the collaborative innovation of the boats detailed above illustrates, these networks are capable to adapting and developing new smuggling tactics: "every single day, there's a new angle, there's something else happening" (inspector, RCMP).

In many ways these actions resemble legitimate enterprises: "[it is] very business-like.... it's just

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[127] Section 467.1 (1) of the *Canadian Criminal Code* (see section one of this report).

[128] Some of corporation may also be culturally conditioned: "often among Asian people, yeah. I will do something simply because it's a face thing. You show me respect by sending your guy over for me to help you out or help him out, so I do it, even though I'm putting myself at risk and I'm not benefiting a lot from it" (corporal, RCMP.)

that they are involved in not a legitimate business. It's just like the importation of heroin or drugs, it's an import and export business, but the commodity is different. Now we're talking about female or human trafficking. Humans are their commodity." These organizations may in turn "emplo", often in a fee-for-service agreement, unaffiliated individuals for specific services. These could be public officials such as customs officers who facilitate entry into Canada or document providers who sell passports. At other times they may be recruiters from the community:

> people who have close ties with the Asian communities.They go to those respective homes and say, you know, 'I know you've got a cousin in mainland China, I can bring them over here.' So they're the recruiters in Toronto.... they could be restaurant owners, they could be housewives.... they just work for the organisation because they get a pay" (staff sergeant, TPS).

Like legitimate businesses, the trade is profit-driven: "organised crime does not do anything that doesn't make them money. Now, they are not philanthropists, they do it all for money" (inspector, RCMP). Virtually all research participants agreed that the motivation for organized crime is straightforward greed: "You'll find that organised crime, the higher ups, they want more and more and more money" (detective constable, TPS).

Poverty, Culture and Irregular Labour Migration

Although the criminal justice participants were opposed to 'queue jumping', many were nonetheless empathetic to the situation of undocumented migrants regardless of their labour location and sensitive to the economic and cultural dimensions that encourage emigration and condition the alien smuggling business. Principal among these is the perception of Canada and the United States as the land of unlimited opportunity and wealth which creates "willing victims" (sergeant, TPS). Speaking of the recruitment of undocumented migrants the staff sergeant explained that, in light of the standard of living and alternatives in China the 'snakeheads'[129] have no difficulty recruiting migrants:

> It's very easy. The people are lining up to come over here.... the demand is higher than the supply. They're waiting for a place in the container,....because they're looking at getting out of China as a way of escaping poverty. We call most of these migrants of economic hardship.... They all want to come here because they all believe coming to Canada, coming to the States, they can make a lot of money, that they can send back home.

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[129] The corporal explained the term: "in China it is spelled as 'she tou' in Mandarin. It refers to the aliens being smuggled as snakse that don't want to be seen. So the Chinese call them human snakes. The snakehead is the leader of the 'human snakes'."

Put this way it is the international distribution of wealth and marginalised situation of potential migrants that facilitate what staff sergeant described as:

> an exploitation of human needs,.... when you're living in poor conditions, you know, when you live in Thailand, Cambodia, or mainland China, and you don't even know what tomorrow is going to bring.... Can they feed their families? Am I going to live? Am I going to eat? ....They are also exploited because they have no choice.

At the same time economic need intersects with culture to further support the trade. Here an understanding of the family as characterized by reciprocal obligation was highlighted:

> Asian families are very tied...There's two or three generations living under one roof. So it's more tight and everybody goes out to make money to pay the rent or the mortgage. Everybody shares in supporting the family (sergeant, TPS)

As Massey (1999) has pointed out, when the family functions as an economic unit operating within the context of fiscal and political instability, migration is not only a tactic to combat poverty, accumulate goods and improve economic prospects of all family members, it is also a risk-management strategy: "by sending members to work abroad, households diversify their labour portfolios to control risks stemming from unemployment, crop failures, or price fluctuation.... or to build up savings for retirement" (1999).[130]

It is within the context of the harsh economic realities combined with the familiar relations that conditions the subjective experience of irregular migrants in Canada:

> a lot of people go underground to work in the restaurants.... as a dishwasher, whatever. And they're willing to do that job for ten hours a day, twelve hours day.... They work sixty hours a week or seventy hours a week [and] they will be paid maybe three hundred dollars a week. But to them that is a lot of money. They will probably be renting a room for two hundred dollars and they can save up the money. They probably eat in the restaurant, so they don't spend too much money, they save up a thousand dollars Canadian and send it back to China.... The hardship to them is nothing, because the working conditions, the living conditions back home are much much worse than here. Even the rented room, it's more room here. It's better then whatever they have back home (sergeant, TPS).

Within this framework, the migrants are not only 'willing victims' but do not define smuggling as problematic "they don't think this is a crime. In Canada you think differently, of course" (sergeant, TPS). Not surprisingly:

> the snakeheads are also seen as providing a service to people who aren't willing to wait to

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[130] According to some of the three hundred smuggled Chinese migrants interviewed by Ko-Lin Chin (1999), simply having a family member abroad is a source of status and can also translate into economic advantage outside of any funds that are transferred (for example family members may have access to credit) (Chin, 1999:10).

> come out legally. Even though they can foresee risks in getting here and long hours working for little pay after they arrive, these people are still willing to do it - to be smuggled..... I think they're exploited in the labour market...[but] they're willing to be exploited (corporal, RCMP).

At the same time as they identified the general acceptance of the practices within the community participants also highlighted victimization and that, as the inspector pointed out "not all of them are unwitting victims, but I don't think everybody realises the extent that they're going to get into it with these people." Two particularly problematic aspects were highlighted: violence and deception.

First is the issue of violence. The sergeant from TPS explained the implications of different repayment models:

> People who have money can pay it up front. They come here and nobody will bother them. But when you don't have the money, or the full payment, you pay a deposit, and they transport you and they arrange to have people pick you up from the airport and place you in a safe house.... and then they will make you work."[131]

Not only are the conditions of labour sometimes akin to indentured servanthood, but the environment in which they are confined may be violent. One sergeant described one such incident. "It was a 911 call.... One person was chasing the other person with a meat cleaver. Because that person was kept in the house and he escaped and the watcher or whoever was looking after him was trying to catch him back with the meat cleaver."[132] Engaged in an illicit trade, smugglers are denied legal recourse however they can draw on their long history[133] and culturally conditioned familiar relations previously noted to encourage individuals or their families to resolve the debt. Agents may resort to threats or acts of violence or to kidnapping: "this person was smuggling into the country and he was unable to pay up. He was made to call China, to his family in China. 'I was sort of kept or detained by this group of people'... They kidnapped this man at gunpoint" (sergeant, TPS). At other times individuals are rendered compliant through threats of physical harm to family members in their country of origin or, more benignly, through threats to appeal to the family for the funds owed. The sergeant explained:

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[131] In other cases relatives in Canada may be expected to pay the balance, or the family in China will pay upon safe arrival.

[132] This was identified by all three officers who had worked in the field. It is also supported by qualitative research. In addition, a number of the respondents in a unique research project undertaken by Ko-Lin Chin in 1994 that entailed interviews with three hundred irregular migrants in the United States, spoke of the sometimes horrendous physical, sexual and psychological abuse in the safehouses (1999:105-110).

[133] According to a staff sergeant, TPS, "Organised crime has been with the Chinese history for maybe over four thousand years.... It's all ingrained in the Asian populations' minds - the fear."

> a lot of times they use this.... 'If you don't pay up, I know your father.' It's a different culture here - in the western world, if you owe somebody money that's your business. But if the Chinese owe somebody money, it's his whole family's business.... They will go after your family if you can't pay up.... That's an acceptable thing, it's understood.

Secondly, undocumented workers may have been misled or misinformed about the economic prospects in Canada. Some of this may be engendered by the posturing of migrants who "go home on visits and they spend all that money and people in their village or in their town can see, oh, 'he was a farmer in town, now he's a big spender!' But then again, they won't tell they work twelve hours a day in whatever conditions. People tend not to say that." (sergeant, TPS). At times this may be a strategy of recruiters who:

> spend ten thousand dollars on a family and say 'hey, all expenses paid trip back to China, you just have to do a couple of things for us. Just tell them what this is all about.' To them this is nothing. This is sort of the price of doing business.....And there are people willing to do that....going back to the home countries, you know, pretending to be very rich. (staff sergeant, TPS).

It may also of course be a result of purposeful deception by recruiters[134] or the unintended consequence of the loose affiliations previously discussed. Regardless of the reason, irregular migrants may find the job opportunities severely limited and living and labouring conditions a far cry from what they had anticipated.[135] The economic marginality of these undocumented workers may in turn encourage them to participate in human smuggling or other illegal activities, including perhaps sex trade work. Some may be driven by fear or desperation or, as in the following example by sergeant, TPS, more simply by the lack of viable alternatives:

> I was talking to a, Big Circle Boy criminal, and I asked 'why do you keep doing this?' And he said, 'I came here, I couldn't find a job, so I called my friend and my friend said, do you want to get involved in this alien smuggling business? So I had no job, but had to live, so I needed money, so I helped him in this business.'

Irregular Migration and the Sex Trade

The media conflation of the sex trades and irregular migration embodied in the image of the 'sex slave' was marginal in the discourse of the police professionals and the advocates interviewed. With some notable exceptions research participants framed the issue in terms of broader

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[134] Although it was not noted by the informants in this study it was a key finding of Chin research noted above. According to Chin's informants, these 'little snakeheads,' motivated by the fee they would earn, frequently deceived or misinformed recruits in order to secure them as clients (Chin, 1999:32).

[135] This is also highlighted by informants in Chin (1999) and Cheney and Freeze (2001).

questions of exploitation and labour migration as detailed in the previous section. They did however recognize that the experience was conditioned by the social and legal location of the sex trade industry and several interviewees described the market: "you look in the newspaper, any paper that sells sex, 'Asian women.' There's a fantasy. There's a demand for it" (staff sergeant, TPS) moreover "the customers don't care. They're not asking her 'are you free to come and go?' 'Are you okay?' 'What language do you speak?' 'Where are you from?' They don't give two boots" (sex trade worker advocate).

According to the criminal justice professionals there are several routes that result in undocumented women migrants working in the sex trade industry. Some women come to Canada "for the purpose of prostitution.... and they make enough money and they go back" (sergeant, TPS). Speaking of one such case the corporal noted that the women "they were knowingly doing it.... we know from talking to some of them later, and from monitoring phone calls that they were running a business and this was part of the business." Other women may arrive in Canada and then start to work in the sex trade: "that's just one of the jobs that they choose and then a lot of people go underground to work in the restaurants" (sergeant, TPS). Other women are undocumented migrants who are unable to pay the balance of their debt to the smugglers:

> [They] will belong as property of the gang. The males, they'll be used in sweatshops, in supermarkets, you know, some of the restaurants, and they'll work very cheap.... female parties usually go into the garment industry, or as waitresses. And a lot of them, almost eighty percent of them, they go to bawdy houses, the sex trade" (staff sergeant, TPS).

The issue of deception also emerged in the interviews. Two of the advocates and one of the police professionals spoke of their experience with women who were not aware that they would be employed in the sex trade: "we've had clients who came over really believing they were going to be a nanny, or a housekeeper.... and then got over here and found out that they weren't" (sex trade worker advocate). Alternately, and echoing the issues identified for irregular migrants more generally, several police professionals and the sex trade advocate indicated that while aware that they would be employed in the sex trade some women might be ignorant of the specifics of the job. In the latter case the misrepresentation might be a purposeful ruse, or it may be the unintended consequence of poor communication so that: "it's not even clear that somebody, for example, in the country of origin knew, exactly, the details of the living and working arrangements in the destination country" (sex trade worker advocate). She pointed out that there is an additional complication that is engendered by the illegal status of the sex trade and can result in misunderstanding. Women who are unfamiliar with the 'codes' of the sex trade

may fail to understand the meaning of terms such as 'dance,' 'massage' and 'escort' that employers use to protect themselves from charges of procuring under section 212 of the *Canadian Criminal Code*.

Not surprisingly, there was a lack of consensus on how to categorize these sex trade workers: Are they trafficked women?[136] Victimized prostitutes? Or exploited workers? It is important to appreciate that this may speak to the sometimes problematic delineation between smuggling and trafficking. Rather than reifying distinctions, in the next section we detail some of the issues that research participants highlighted as important to understanding these women's experiences. In particular we consider the issue of debt, options, and the implications of their involvement of the sex trade.

Several respondents indicated that the women may be essentially enslaved in a cycle of debt: "whether it's a debt bond or whether it's just.... never-ending. To me that's slavery.... eventually you do pay a real debt. These are made-up debts where they just keep paying and paying and paying and paying" (inspector, RCMP). Others suggested that the debts could be resolved however until that time "their activity was restricted, their passport was retained, so that they can't go away" (sergeant, TPS).[137]

During their repayment phase (whether finite or not) the women are controlled: "the network is so small, and the gang, it operates on terror and fear. And these people they don't want to leave because they know if they run away, their family back home may be harmed" (staff sergeant, TPS). According to the sex trade worker advocate, during this phase women are most vulnerable to labour exploitation as employers "exercise a greater amount of control because they recognise that these women are most vulnerable. [Also because they are] anxious to retrieve their money. And because they don't have legal contracts or anything, they probably assume that the best way

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[136] Many of the police professionals did not use the term 'trafficking' preferring the term smuggling (the former, but not the later entails, according to the UN definition and echoed in Canada's *Immigration and Refugee Protection Act*, abduction, fraud, deception, use or force or coercion). Several did however make a sharp, and somewhat troubling, distinction between women who knowingly came and 'innocents', with only the latter being defined as trafficked.

[137] This is also consistent with the findings of the 1994 Chin research noted above. Chin (1999) found "no evidence of that women were smuggled from China in order to work as prostitutes in the United States, as some authorities have speculated, they sometimes fell into prostitution after their arrival as a way of paying off their debts" (1999:109).

to do that is to pressure the women to work really hard."[138] The conditions under which indebted women live appear to range from substandard living conditions where "you've got a two bedroom apartment. Each room is maybe a hundred and fifty square footage. They'll put about ten mattresses in there and about twenty girls sleep in the room" (staff sergeant, TPS) to a situation that the detective constable, speaking of the women arrested in Project Orphan described as, "they were well looked after. The madam bought them food, she bought them all their clothing, she bought them the condoms.... She put them up in apartments."

However as the staff sergeant noted, even after they have repaid their debt their alternatives, and therefore their ability to make choices, may be limited:

> Where the hell are they going to go? They have no idea. They're somewhere where they don't speak the language. They have no friends here. They have no social support, like they don't know how to take the bus, they can't go anywhere. So usually they just keep on working for that guy.... [although] they would get forty percent of what they're earning.[139] But now they have to start paying rent. Paying for food.

The issue of language was also raised by all the advocates who noted the vulnerability of a woman who does not "speak the language, doesn't know where she is, doesn't know who she can trust, who she can talk to" (sex trade worker advocate).

Options are also conditioned by obligations. Here we see the intersection of culture and the economic need of the women's families coupled with familial responsibility noted in the previous section once again coming into play: "All the money that they do make, once they're done [paying their debt], most of these poor young girls are sending it back to their family" (crown attorney). This brings us back to the issues of economic need, subjectivity of hardship and relative definitions of financial success: "they'll say to us, and I can't argue with this, they'll say to me, but five dollars at home will feed my family for a month" (sex trade worker advocate).

Finally there is the issue of their participation in the sex trade itself. As the sex trade worker advocate pointed out "whether you're being brought over from another country or whether you're in this one, I think if you're a sex trade worker, I think that you're marginalised, and I think you're oppressed." Moreover, although prostitution is legal in Canada, many aspects of the

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[138] She also noted that some of the women, because they were anxious "to clear up the debt. And so they're perhaps going to work longer hours, maybe take bigger risks, in order to make the money that they needed."

[139] According to a recently completed research on the massage parlor industry in Montreal and Toronto this fee distribution is characteristic of the industry (Bruckert, Parent and Robitaille, 2003).

trade are criminalized.[140] Consequently although the police and crown attorney interviewed were principally concerned with sanctioning the upper echelons of the industry, in practice when police target the industry the women are the ones who are arrested, detained, charged, convicted and/or deported both because of their engagement in the sex trade and because they entered, or remained in, the country without authorization.[141] The result is that the intervention by the criminal justice system can be traumatic:

> A lot of the women describe their experience with the police and immigration officials as being the worst thing that's happened to them throughout the entire migration process, despite the fact that they were allegedly trafficked women!...Women whom police and others labelled as trafficked, and whom the police and the courts were allegedly assisting, ended up in what they felt were worse situations than before. Some of them ended up detained, and women were, because of sentencing conditions or bail conditions, disallowed from associating with their friends or other sex workers, or continuing not only in the sex trade, but anything that could be associated with the sex trade like massage. This of course places them in a serious economic jeopardy. (sex trade worker advocate)[142]

Addressing the Problem

Research participants were asked to suggest strategies or initiatives to address the problems identified in relation to organized crime and undocumented workers generally, and sex trade workers more specifically. Not surprisingly it was in terms of solutions that the sharpest divisions between discourses emerged. In this section we present the various recommendations of interviewees in terms of political and social commitment, international initiatives, legislative reform, policing practices and judicial issues. It is important to first note the acknowledgement by a number of both criminal justice professionals and advocates that irregular migration is a larger issue, well beyond the capacity of the criminal justice system. Until the causal factors are addressed, including the unequal global distribution of wealth, the illicit migration of people may be reduced but will not be eradicated:

> It's just the whole world is not balanced. Canada is so well developed, but in some other places, developing countries, not just China, there are many other countries who are very poor and people always look for a better life.... so they're

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[140] Since many of these workers are employed in massage parlors they are particularly vulnerable to charges of "being an inmate of a bawdy house" under section 210 of the *Canadian Criminal Code*.

[141] In a situation akin to the situation of domestic workers who arrive in Canada under the 'live-in care giver program' and who tolerate labour exploitation because their employers threaten to have them deported and they mistakenly believe that their employers have that authority (Solomita, 2003; Human Rights Watch, 2002). The Crown Attorney noted that their status becomes a tool to ensure compliance "that's held over their heads and they say, 'well, if you ever do go to the police or you try to leave me, or if you do not complete your contract, then you'll be deported."

[142] See also Smith, (2000) for a similar argument.

not going away (sergeant, TPS).

Political and Social Commitment

Four of the criminal justice professionals bemoaned the lack of political commitment on the part of the Canadian state. It was put forcefully by the staff sergeant:

> Canadian society does not care.... about what's going on here.... About the plight of the people, and about the seriousness of this problem. Because these types of organised crime activity do not impact on you and I, really.... To be fair, they're more concerned about the local drug dealers and gangs. They want us to clean up our own backyard before we worry about other people.... [later he noted] and the bottom line is who are your victims? Who are your victims? I hate to say it, but you know what, the bureaucrats are saying, 'what? A couple of prostitutes?'[143]

A number of interviewees urged public education about the issue noting that it is only the dramatic events like the arrival of four boatloads of Fugianese migrants in the late 1990s that garnered international attention, sensitized Canadians and temporarily spurred action by the state.[144] The social worker and the counsellor took this argument one step further. Echoing the discourse that undocumented workers perform necessary labour at discounted rates and therefore represent the dark side of neoliberalism (Saunders, 2003; Jimenez, 2001; Taylor and Jamieson, 1999), the social worker noted:

> This is an economic commodity. This is what these women are seen as. And that brings money, and they [the government] will continually turn a blind eye to that, they don't care about who's being affected, exploited. They're just looking at the money.

International Initiatives

The need for education initiatives in originating countries and cross-nation communication/cooperation were highlighted by many research participants. In the case of the former, most stressed the need to provide potential migrants with accurate information about laws and labour conditions to combat both the prevailing understanding of North America as 'the

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[143] In addition Zhang and Chin (2001) suggest that the "illegal Chinese immigrants have been largely 'invisible', owing to linguistic and cultural barriers erected by the ethnic enclaves of receiving Chinese communities in the United States" (2001:33).

[144] In many ways this echoed events in the United States. In 1993 the *Golden Venture* ran aground with 260 undocumented workers aboard (ten of whom died attempting to swim ashore). Since then the government of the United States has implemented the use of sophisticated surveillance techniques and legislated harsher sanctions for smugglers (Zhang and Chin, 2001:32). Although not temporary measures, the effectiveness of these strategies in reducing irregular immigration is unclear when officials estimate that there may be as many as five million illegal migrants in the United States (Jimenez, 2001:8).

land of milk and honey' and the misinformation propagated of smugglers.[145] The staff sergeant noted that "if people want to come they're still going to come.... But now at least they have a different story.... It's not a country club over here." The sex trade worker advocate also stressed the need for accurate information cautioning that instead of practical information on prostitution laws and practices that would allow workers to make informed decisions "a lot of so-called anti-trafficking initiatives geared towards women in originating countries include strong anti-migration messages.... A lot of the visual and spoken images that are presented are disturbing and are dramatic.... It's tales of horror." She also pointed out that the criminalization of the sex trade means that "a lot of sex workers are not able to openly find information about their destination country and working in the sex trade in that destination country because the work itself is criminalized."

In addition many interviewees framed solutions in a manner consistent with the approach embedded in the United Nation *Convention Against Transnational Organized Crime*. The importance of transnational communication and cooperation was identified by several criminal justice professionals as was the need to motivate officials in supplier countries to address the issue. Most research participants also stressed that the increased sharing of information between police departments in supplier and destination countries would facilitate strategies to prevent the migrants from leaving their countries of origin and subsequently save policing and immigration resources in Canada. Notably a number of interviewees indicated that some such collaborative initiatives are already in place; for example two RCMP liaison officers are stationed in China and a China-Canada working group meets twice yearly (sergeant, RCMP). According to the RCMP sergeant, as a result of these initiatives a number of migrant ships were prevented from leaving China.[146] That being said, and Canada's enthusiastic support (Canada, 2000) and ratification of the UN convention and supplementary protocols notwithstanding, it appears the resources for these types of initiatives are extremely limited and, according to some research participants, decreasing.

Legislative Reform

[145] These types of education campaigns are already in place in some Asian and Eastern European countries. These include "Don't Become a Victim of the Illegal Trade in Canada" produced by the RCMP and Status of Women Canada and translated into thirteen languages.

[146] In a similar vein are the Mutual Legal Assistance Treaties (MLATs) that Canada has with some countries.

As previously noted, on June 28, 2002 *The Immigration and Refugee Protection Act* (IRPA), came into effect. This legislation criminalizes smuggling[147] and trafficking[148] allowing for sanctions of up to ten years' imprisonment in the case of the former and life sentences in the case of the latter. Under the law the courts are instructed to consider the following factors in sentencing: harm or death; the involvement of organized crime; profit motive and whether people were subjected to humiliating or degrading treatment.[149] Since it was so recently proclaimed the legislation has yet to be fully tested in the courts. Research participants were therefore somewhat constrained in their ability to offer a critical evaluation of the new law although the most of the police professionals (but not the advocates) expressed cautious optimism. The RCMP sergeant, noted that currently IRPA is awkward but that the RCMP policy sector is working with governmental departments to make the law an effective tool.

Beyond that, criminal justice professionals suggested that the *Criminal Code* needed to be revisited. According to the crown attorney "the criminal code is antiquated right now to deal with what they never anticipated - the importation and smuggling of women and men. The code isn't built for this international aspect of the trafficking." He, along with several other research participants, suggested the smuggling of humans should be introduced as a *Criminal Code* offence. Moreover a number of comments were made to the effect that criminals perceived Canada as 'soft on crime' and there was considerable enthusiasm, again consistent with the UN convention and protocols, for furnishing police with better tools to combat these practices. In the words of the corporal:

> I've interviewed them [snakeheads] outside of Canada, and I can tell you that what they have told me is that they see Canada as being soft on crime, it's a place where it's easy to get around. Even if you're detained you're released again for another date. For example, the organised crime law in the United States is very powerful and we don't have an organised crime law like that.

Finally, according to a number of professionals, it is both difficult and costly to assemble cases even in the rare instances where smuggled persons are willing to testify. Among other issues the expenditures required to keep witnesses in Canada while they are awaiting trial is prohibitive. The crown attorney, speaking from his area of expertise and reflecting on tactics that would facilitate prosecution suggested that legislation is needed so that prosecutors are:

> able to take affidavits from these third world countries and interview police and not necessarily have to fly over twenty people, because the cost would be

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[147] Paragraph 117 of the *Immigration and Refugee Protection Act*.
[148] Paragraph 118 of the *Immigration and Refugee Protection Act*.
[149] Paragraph 123(2) of the *Immigration and Refugee Protection Act*.

> prohibitive. And there is. The Charter permits, in certain circumstances, that type of evidence, and so does the *Criminal Code* with the right amendments...[He also noted that for war crimes] there is a mechanism in terms of evidence, procedure and the *Criminal Code*, and the *Charter of Rights and Freedoms* that the accused can still have a fair trial still have full answer in defence, still be presumed innocent, the burden on the prosecution, proof beyond a reasonable doubt still exists and still have a jury trial.

On a more cautionary note two concerns were raised. First, legislative initiatives need to be well thought out and in keeping with the reality of the problem. For example, the staff sergeant noted that an amnesty program for irregular migrants who testified against smugglers would be ineffective since it ignores the smugglers' strategy of threatening the family of migrants which ensures participants' silence regardless of their victimization. Second, as the criminalization of the sex trade already works to the disadvantage of the women in the industry - any new laws must be carefully crafted to ensure that they do not, in practical terms, further victimize the very people they are defining as victims.[150] Speaking to this issue the social worker reflected on her experience working with undocumented migrant sex workers:

> All they [immigration] wanted to do was deport. And you see, for us, we're saying, well, why? It's not her fault. She's a victim in this. She might want to get to Canada, but she's also a victim of circumstances. She has a family back home that's possibly starving, or they have no work, a sick mom, a sick dad, whatever. And they're over here trying to make money and they see it as their way out of poverty.

The sex trade advocate suggested that rather than increase laws we should be considering decriminalization of the sex trades on the basis that:

> A lot of the challenges that are faced come from lack of access to redress when violations do occur. Legal redress, and legal redress outside of criminal law.... I think one of the problems is that when people don't have proper status in the country in terms of immigration status, or when they don't have legal status as workers, as sex workers, particularly as prostitutes, they lack some of the basic protections.... If sex work was decriminalised, women would be able to access information and services, and certain abuses that we see, such as unpaid wages, unfair working hours and so forth would be able to be addressed and remedied through existing labour laws. I think it would also be easier for existing organisations that service sex workers directly and otherwise to have information available about where to go when something goes wrong, where to go for cultural interpretation, where to access health services, and so on.

Policing Practices

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[150] This concern was raised by the advocates and was also reflected in the lively debate between governmental officials and front line service providers for refugees at a conference held in Ottawa on October 3, 2003, "Trafficking in Women and Girls" sponsored by the Coalition for Ottawa Refugees.

Not surprisingly, the police professionals we consulted spoke knowledgeably about ways to increase the effectiveness of law enforcement practices. In addition to the need for international collaboration noted above, several other recommendations were proffered. Implicit here is the need for greater resources.

> I think [there is a need] for us to really get serious in this country and put more resources into immigration, immigration programs, not just enforcement, but the other two pillars as well. And we just haven't found the money (inspector, RCMP).

First, given that organized crime is profit driven, research participants stressed the importance of undermining the economic viability of the enterprise. Accordingly police should attack "not just the offences that are committed by the smuggling of the migrants or by the trafficking of the humans, but also the money that they make from it, the laundering and the proceeds, and we try to go after that as well. So it's a multi-faceted approach" (inspector, RCMP).

The importance of a comprehensive approach that attends to the three pillars of enforcement, education and prevention was highlighted by a number of the criminal justice professionals though most explicitly by the inspector. The inspector also noted that law enforcement in this area had improved dramatically with the shift towards intelligence-led policing:

> I think we were [in the past] too quick to want to get fast success and then you're always reacting.... and because you're so busy reacting and your resource base is limited, you can't be proactive...Start off with a kernel of information, turn that into intelligence, build it and develop it until you've got some evidence and you've got a case.... [he later explained that it] takes longer to get behind just the guy who sits on a plane with a couple of migrants. He's a smuggler. Those people are being smuggled. But who hired him? Who hired the person that hired him? Who's profiting from all of this? That takes a little bit of time, takes a little bit of backtracking.

This approach, as the corporal noted, necessitates multiple components:

> We are most successful when we collect that street level information to recognize trends in Asian organized crime. So the team requires those street level investigators, as well as investigators connected nationally and internationally as well as analysts to assess all the information.

The need to be able to respond to the fluid and ever-changing practices noted earlier means police can not be:

> hung up on specific commodity.... I mean, now, perhaps today, we do, but certainly back then, we've tended to look at commodities and that's where we've failed. We chase people around who counterfeit credit cards and by the time we

> figure out who's doing that they've gone on to do something else and now they're heroin dealers.... that's where I think, if we've learned anything over the years, which leads us to the type of thing we're trying to do now where we have a collection plan on organised crime figures and we target them. We shouldn't be hung up on the commodity (corporal, RCMP).

Finally the need for inter-agency cooperation and communication to develop a comprehensive approach to the issues was also raised by several research participants. Police framed this as police-immigration cooperation; the social worker however envisioned something broader, a "national coalition of agencies across Canada that sit down every few months and conference.... and work with immigration, and let immigration know that they are part of the pimping, as far as we are concerned here, and try to hook up with the RCMP [and the] OPP."

Judicial Issues

Recommendations around judicial issues centred on two concerns: the need for harsher sentences and the failure of the judiciary to appreciate the complexity of the issues. In the case of the former all the criminal justice professionals but not the advocates, expressed confidence that harsher sentences would serve as both general and specific deterrence and dissuade some of the smugglers. It "will not solve the problem, but it will reduce the problem. People will think twice before they do it" (sergeant, TPS). Moreover it was generally felt that harsher sanctions have an educative function on the Canadian public and affirm the seriousness of the issue.

The second, and related issue, was the failure of the judiciary to appreciate the complexity of the situations. The staff sergeant, drawing on his experience with Project Target explained that they had laid charges for:

> Bawdy house, exercise control, living on the avails, that kind of stuff.... We tried to convince the court, you know, they are free to go, but they are not really free to go.... But obviously this is so hypothetical that the judge didn't believe that. They just laughed us out of the court.

Discussion

A number of notable points emerged from the interviews, some of which challenge established discourses and speak to the need to rethink assumptions. In this section we highlight key findings

and consider them in relation to recent empirical research in the United States and Europe[151] as well as other broader debates in the areas of organized crime, the political economy of migrant labour, and the sex worker/sex slave dichotomy.

Organized Crime

The principal image of Asian organized crime that emerged from the interviews is that of loosely affiliated groups of enterprising individuals motivated by financial gain, engaging in market-driven activities. Within this framework, which is similar to the network model proposed by a number or researchers (Taylor, 2002), human smuggling appears to be an illicit business, created in part through restriction of legal/legitimate channels.[152] Accordingly it is a *criminal* activity although not considered deviant by either agents or the alleged victims. Moreover it is an *organized* enterprise that necessitates not only transnational coordination and cooperation but also the services of non-affiliated community members.

This model is at odds with the popular image of highly structured hierarchical 'Mafia' organizations unproblematically reproduced in the Canadian media (Bruckert and Parent, 2002) however it shares certain similarities with the one presented by Chu (2002) and Skeldon (2000) as well as emerging out of empirical research funded by the US Department of Justice into Chinese human smuggling. The latter research, based on 130 in-depth interviews with human smugglers[153] found that this activity was not the purview of traditional Asian organized crime although individual Triad members may be involved:

> Most smugglers of human beings are otherwise ordinary citizens whose family networks and fortuitous social contacts have led them to take part in a profitable trade....They are loosely connected and form temporary alliances to carry out the smuggling operations. With the exception of a shared commitment to making money there is little that holds them together (Zhang and Chin, 2001:31).

Moreover Zhang and Chin (2001) argue that it is precisely because they are not bound by the rituals and norms of traditional Triad societies that smugglers are able to "assemble quickly when the criminal opportunity arises and to dissolve after their criminal conspiracy is carried

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[151] It is necessary to rely on American and European research since, as the inspector noted, there is limited research-based Canadian information available.

[152] Like smuggling of alcohol during prohibition in the United States, gambling prior to the emergence of state run lotteries and casinos and narcotics today, the smuggling of humans is a niche market that is created when legal avenues are blocked or restricted. See also Serrano (2002).

[153] The authors also undertook observations in receiving sending and receiving communities in China and in the United States.

out" (Zhang and Chin, 2001:47).

In short, smuggling of humans from Asia to Canada is indisputably consistent with the *Criminal Code* definition of organized crime – it requires the cooperation of more than three persons in or outside Canada, and it is an illicit activity. That being said, there is a need to examine whether or not the organized crime model provides a useful conceptual framework for analysing smuggling practices. Among other things, this model immediately positions the activities within a broader discourse of alien conspiracy, hierarchically structured gangs and organization (Kappeler et al, 2000), which have little resemblance to the model emerging for the interviews we conducted for this research and from other research. Perhaps more troubling is that it positions irregular migration as a criminal justice problem obscuring not only the political, social and economic context out of which the trade emerges but also rendering the complicity of reputable non-criminalized employers and consumers in receiving countries outside of the discourse.

The Political Economy of Irregular Migration

It is well documented that the widespread smuggling of humans emerged within the context of economic and political restructuring that has marked the last three decades and resulted in an increasingly inequitable global distribution of wealth and the erosion of the economic prospects for substantial segments of the developing world (Beare, 1999; Bauman, 1999; Bertone, 2000; Toupin, 2002). Most interviewees were clearly sensitive to these issues drawing attention to the economic motivations behind peoples decisions to migrate through irregular channels and speaking of potential migrants' active pursuit of "snakeheads" to facilitate their passage to North America. Largely absent however, were comments regarding the other side of the equation – the pull factors engendered not only by the wealth of the West but also by consumerist countries which willingly access the labour, often at discounted rates, of migrant workers. Within this context it would certainly appear that many irregular migrants are casualties of the global economy; however the question that presents itself is: Are they victims? And if so, by whom or of what? Are they victims of organized crime? Of exploitative employers? Or of a Canadian state that is indifferent at best, complicit at worst?

Turning to the interviews it is clear that most research participants did not deny the agency of irregular migrants and define them solely as victims. This being said some interviewees did indicate that irregular migrants, both male and female, were victimized by smugglers who charged excessive fees, extorted additional funds, used violence as a tactic to ensure payment or

positioned workers in situations akin to indentured servanthood. Some of this may speak to the reality that these agents are operating without the benefit of legal recourse and therefore employ violence and hostage taking as tactics to ensure they collect the balances owing by smuggled individuals.[154] This may also highlight an important, but often overlooked, distinction between "ethical" and "unethical" smugglers. This was alluded to by an informant in the research by Zhang and Chin (2001:40) who expressed pride in his solid reputation earned by virtue of ethical business practices including the provision of the agreed upon services, neither lying nor stealing from customers and not charging additional fees upon arrival.

On the other hand, irregular migrants may be victims of exploitative labour practices. Neo-liberal market reforms (Taylor, 2002) coupled with the increased demand for goods and services in consumerist host countries have resulted in the emergence of employment sectors that rely on immigrant labour, including undocumented workers, to labour in sweat shop conditions in, for example, the garment industry, agriculture, food production, and domestic service (Taylor and Jamieson, 1999). It goes without saying that this population – vulnerable to threats of denunciation and with few options by virtue of their lack of documentation and (not infrequently) language skills - constitute a particularly exploitable labour pool. Moreover, unlike documented workers in the labour market, these individuals do not have access to the protection afforded by labour legislation or, for that matter, by the police. From this point of departure we must consider the responsibility or complicity of consumers and employers who, at times knowingly, purchase the goods produced and/or the services provided by, undocumented workers.[155] While sufficient information to speak authoritatively to this possibility did not emerge in this research, certainly the inadequate income and working conditions mentioned by the TPS sergeant, as well as issues of the lack of job security, illegal labour practices and vulnerability highlighted in Canadian and American analysis (Cheney and Freeze, 2001; Chin, 1999) indicate that this possibility warrants further investigation. Moreover, it is within this context of limited options and exploitative labour conditions that some irregular migrants may choose to earn their livelihood in the illicit sectors of the labour market including smuggling activities and the sex trade.

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[154] See also Zhang and Chin, 2001:42.

[155] The recent "Operation Rollback," by American law enforcement and immigration personnel that targeted 300 undocumented cleaners working in Walmart stores, allegedly with the knowledge of company officials. News reports at the time of the arrests suggested that between six to eight million undocumented workers in the United States represented an "epidemic" (McKenna, 2003:B8).

Finally we must consider the role of the Canadian government. A number of research participants were critical of the lack of commitment on the part of the government to address the victimization of irregular migrants. While these comments were often in reference to criminal justice intervention the same is true for the failure to regulate labour practices. This may be complacency or it may speak to a broader problem. A number of commentators have suggested that the exploitation of third world workers, in their countries of origin or in western nation states, are (one of) the dark side(s) of neoliberalism (Taylor and Jamison, 1999; Jimenez, 2001). Put this way the affluence of countries in the 'developed' world, including Canada, is in part sustained by the exploitation of these workers. Speaking to the situation in the United States, (2001) notes that these workers "take their place on the bottom rung of the labour market, filling low-skill jobs that most U.S citizens think are beneath them…while they do not pay taxes their labour and consumption have become integral to the American economy" (2001:3,8).

Sex Trade Worker or Sex Slave

The broader debate around women's engagement in the sex trade which centres on the question of choice is reflected in the sex slave/sex worker dichotomy that underlines much of the literature (Barry, 1995; Jeffreys, 1999; Richard, 2000). This is a key issue to consider given that it fundamentally determines policy approaches – women who are (trafficked) slaves are in need of salvation, women who are marginal workers require labour and social support. The image that emerged from the interviews has more affinity, albeit with certain qualifications, with the latter than with the former. Here again we see the need to rethink the framework in which the issue is conceptualized since one that constructs the experience in relation to victimization by criminal organizations limits the conversation. Not only does the discursive association with organized crime function to further legitimate the criminalization of the trade which, as we have discussed above, in practice penalizes the women at the same time as it defines them as victims by denying them information, protection and support. It also obscures the commonality with broader issues of the irregular migration noted above and situates the issue outside of considerations of labour. When we shift outside of the criminal justice framework and start from the perspective that migrant sex trade workers are *workers*, attention is immediately focused on labour options and labour practices. We can also situate women's decisions to engage in sex trade within the range of choices. Chin's (1999) finding that almost 90% of his sample of smuggled Chinese migrants[156] were employed in the food, garment or construction sectors (1999:181) speaks to the types of

[156] Sample size, 266.

labour available.[157] When we consider that the construction sector is not only the most profitable of these but also the least likely to hire women, we can appreciate that the sex trade may represent a viable alternative to some women who arrive in Canada with high debt loads, pressing family obligations and few options.

At the same time we can recognize that the hardships confronted by irregular migrants generally including the lack of legal, health and political resources (Chin, 1999; Cheney and Freeze, 2001) is exacerbated for these women by their status as sex trade workers. This highlights the need to address broader issues surrounding the exploitation of illegal migrants at the same time as it speaks to the importance of addressing the labour issues in the sex trade. Central to this is revisiting the criminalization of the industry which not only victimizes workers in the criminal justice system but also adds an additional barrier to realizing labour rights (Bruckert, Parent and Robitaille, 2003).

Finally, the 'sex slave' discourse not only denies agency but functions to obscure some women's exploitation at the same time as it renders exploitation the defining characteristic of others. In short, as we saw in the analysis of the judicial discourse, embedded in the sex slave/sex worker dichotomy is another dualism – innocent/culpable, women who are aware that they will participate in the trade are potentially protected while women who experience severe labour abuse are held accountable for their situation regardless of the exploitation they may experience. In short it may render some women's victimization invisible, obscuring the experience of smuggled women who are subsequently trafficked within Canada and may get played out in the denial of the victimization of women who knowingly come to Canada to work in the sex trade.

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[157] A number of informants also highlighted that many irregular migrants are employed in the manufacturing or food industries. Although few informants made reference to the construction sector a recent article in the *Globe and Mail* quoted the Ontario Construction Secretariat as estimating that "underground construction workers account for about one-quarter of the industry" (Jimenez, 2003:A7).

Conclusion

In the late 1990s the trafficking and smuggling of persons emerged as a subject of debate in Canada and internationally. In particular the locus of concern, embodied in the image of the 'sex slave', was women trafficked by crime syndicates to work in the commercial sex trade. In this research report we sought to examine how this particular, albeit poorly documented, issue was discursively constructed and impacted on policies and practices in Canada. There are a number of findings that warrant reflection. On the one hand we need to recognize that as a signatory nation to *The United Nations Convention Against Transnational Organized Crime* and the two supplementary protocols, Canada has officially deemed the trafficking and smuggling of humans to be problematic. On the other hand up until now the response – principally amending the *Canadian Criminal Code* and introducing *The Immigration and Refugee Protection Act* - frame the solution to processes and practices engendered by complex economic, cultural, and social factors in terms of criminal justice engagement.

This problematic focus also reverberates in the decisions of the refugee courts. Here we see a new category of refugee claimants, ('single women involved [or alternately forced] into the sex industry with an outstanding debt bond') emerge in the late 1990s. For the most part however the judicial rulings, in spite of implicitly accepting the documentary discourse vis-à-vis the trafficking of women for the purposes of prostitution by organized crime, nonetheless interpret the issue in a manner that renders the majority of claimants outside the discourse and hence not entitled to the consideration afforded 'victims'. In particular it would appear that the extra-judicial and potentially moral question of whether the women knew they would be working in the sex trade is rendered determinant. With the notable exception of Justice Bousfield,[158] the judgments are marked by a lack of sensitivity to the cultural, economic and social reality of undocumented migrant workers generally and to the reality of exploitation, violence and stigma experienced by sex trade workers more specifically. This appears to speak to the judiciaries' willingness to acknowledge the context of women's experiences at the same time as they are functioning within the conceptual confines of legal frameworks that inhibit the integration of

[158] G.V.P. [1999] C.R.D.D. No.298 No. T98-06186

sociological insights and restricts their ability to project how that context will have concrete ramifications in the lives of marginal women.

When we turn to the criminal justice professionals and advocates the importance of qualitative research that attends to the voices of experience was reaffirmed. Here a very different understanding was articulated: one that positioned the smuggling of aliens in the context of global inequity conditioned by poverty, culture and the lack of alternatives. A sharp distinction between advocates and criminal justice professionals in terms of the value of criminal justice intervention notwithstanding, what emerged is not the 'sex slaves' that populate the media but a nuanced image of undocumented migrant workers, including sex trade workers, as vulnerable to victimization and exploitation by snakeheads *and* by employers. This immediately positions the discussion outside of the false victim/agent and smuggled/trafficked dichotomies embedded in the 'sex slave' discourse, and provides a point of entry to rethink the state and civil response to undocumented migrant workers.

It is an understanding that is not inconsistent with the counter discourse identified in the first part of the report and articulated by organizations such as Human Rights Watch, The Global Alliance Against the Traffic in Women and the Canadian Council for Refugees. From this point of departure it is important to, on the one hand, attend to the complex interplay of push and pull factors that drive irregular migration and on the other hand, to address the social and labour needs of all persons regardless of immigration status or labour location.

Such an approach does not necessarily entail the abandonment of criminal justice intervention in response to the violence and exploitation which can characterize the trafficking and smuggling of persons.[159] It does however speak to the need to envision a model of intervention that is sensitive to the needs of irregular migrants ensuring that the state response neither further victimizes them, nor facilitates their exploitation. In this vein we would argue, although our criminal justice participants would not necessarily concur, that the criminalization of the sex trade is a case in point, in that it both victimizes women and renders them more vulnerable to

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[159] As previously noted there are already a number of potentially relevant sections in the *Canadian Criminal Code* that address the problematic aspects of the trade including, but not limited to, kidnapping (section279(1)), extortion,(section 346),forcible confinement (section 279(2)), intimidation (section423(1)) and assault (section 266).

exploitation and violence by agents, employers, and customers.

The revision of the state and civil response to the estimated 200,000 undocumented men and women labouring in marginal and hidden sectors of Canada's labour market (Saunders, 2003) calls for, in the first instance, solid documentation of their experiences in Canada. Accordingly, research along the lines of the studies undertaken by Chin (1999) and Zang and Chin (2001) should to be conducted in Canada to identify the extent of the problem and nature of the issues, providing a solid empirical base to inform policy.

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Appendix 1: Legal Databank Search Terms

Database	**Search Term**
CJ	"illegal migrant"
CJ	"sexual slavery"
CJ	Traffic! /3 wom*n
CJ	traffic! wom*n prostitu! (same paragraph)
CJ	"people smuggling" & sex
CJ	smuggling /p sex
CJ	"Immigration and refugee protection" / 20 118!
CJ	immigration /20 118! (after march 2002)
CJ	94! /20 "immigration act" & prostitution
CJ	prostitu! & 94! /20 "immigration act"
CJ	prost! & "immigration act"
CCC	prost! & "immigration act"
CJ	smuggl! or migrant /p prostitu!
CJ	Smuggl! /3 person! & prosti!
CJ	"illegal migrant" & prosti!
CJ	"sexual slavery"
CJ	Prost! & soviet union
CJ	Strip! & eastern Europe
CJ	Exotic dance & traffic
CJ	Strip! & traffic
CJ	Strip! & Asia
CJ	Strip! & Soviet union
CJ	Prost! & asia
CJ	Smuggl! /5 prosti!
IMRQ	Duped & wom*n
CJ	Snakehead
CJ	Refuge & stripper or exotic dancer or strip club
CJ	Prostitution & refuge
CCC	traffick! /p wom*n & 467! /20 "criminal code"
CCC	stripp! & 467! 20 "Criminal code"
CCC	women & 467! /20 "Criminal code"
CCC	"organi*ed crime" & prosti!
BCJ	prostitution & "organized crime"
CCC	traffic! /p wom*n % drugs or narcotic!
CCC	112(1)(j) / 5 "criminal code"
CCC	112! & "organized crime"
CCC	"organized crime" & 112! /5 "Criminal code"
CCC	"organized crime" & 112! /20 "criminal code"
CCC	"organized crime" & 210! /p "criminal code"
CCC	"organized crime" & 201!
CCC	prostitu! & 94! /20 "immigration act"
CCC	"immigration act" & 94!

CCC	traffic! & "immigration act" /p 94!
CCC	prost! & "immigration act" /p 94!
CRMQ	prostitu! & 94! /20 "immigration act"
BCJ	"sex ring"
BCJ	traffick! & prosti!
BCJ	smuggl! & prosti!
BCJ	smuggl! /3 person & prosti!
CJ	"illegal migrant"
CJ	"sexual slavery"
CJ	Traffic! /3 wom*n
CJ	traffic! wom*n prostitu! (same paragraph)
CJ	"people smuggling" & sex
CJ	smuggling /p sex
CJ	"Immigration and refugee protection" / 20 118!
CJ	immigration /20 118! (after march 2002)
CJ	94! /20 "immigration act" & prostitution
CJ	prostitu! & 94! /20 "immigration act"
CJ	prost! & "immigration act"
CCC	prost! & "immigration act"
CJ	smuggl! or migrant /p prostitu!
CJ	smuggl! /3 person! & prosti!
CJ	smuggl! /5 prosti!
CJ	"illegal migrant" & prosti!
CJ	"sexual slavery"
CJ	Prost! & soviet union
CJ	Strip! & eastern Europe
CJ	Exotic dance & traffic
CJ	Strip! & traffic
CJ	Strip! & Asia
CJ	Strip! & Soviet union
CJ	Prost! & asia
IMRQ	Duped & wom*n
CJ	Snakehead
CJ	Refuge & stripper or exotic dancer or strip club
CJ	Prostitution & refuge
CCC	traffick! /p wom*n & 467! /20 "criminal code"
CCC	stripp! & 467! 20 "Criminal code"
CCC	women & 467! /20 "Criminal code"
CCC	"organi*ed crime" & prosti!
BCJ	prostitution & "organized crime"
CCC	traffic! /p wom*n % drugs or narcotic!
CCC	112(1)(j) / 5 "criminal code"
CCC	112! & "organized crime"
CCC	"organized crime" & 112! /5 "Criminal code"
CCC	"organized crime" & 112! /20 "criminal code"
CCC	"organized crime" & 210! /p "criminal code"
CCC	"organized crime" & 201!
CCC	prostitu! & 94! /20 "immigration act"
CCC	"immigration act" & 94!
CCC	traffic! & "immigration act" /p 94!
CCC	prost! & "immigration act" /p 94!
CRMQ	prostitu! & 94! /20 "immigration act"

BCJ	"sex ring"
BCJ	traffick! & prosti!
BCJ	smuggl! & prosti!
CCC	trafic /p femme
CJ	trafic! /p femme
CCC	trafic /p prostitu!
CJ	trafic! /p femme
CJ	traite /p femme % traites & prosti!
IMRQ	Traffic or traffic /p femme or wom*n
CJ, CCC, IMRQ, RDD	Unlawful confinement + prost !
CJ, CCC, IMRQ, RDD	Unlawful confinement + strip !
IMRQ	immigr! & "crime organi*e!" & prost!
CJ, CCC, MRQ,CRDD	Counseling people to make false claim
CJ	"Second locomotion"
CJ	Cannonball
CJ	"Million dollar" & Mississauga
CJ	"Fairbank hotel" & Toronto
CJ	"project Almonzo"
CJ	Chu & prost!
CJ	"Big Circle boys"
CJ	"Ben Soave"
CJ	Chu & pros!
CJ	Vranich (1999)
CJ	"Candyland"
CJ	"Kitty Chu"
CJ	"JJ Massage Club"
CJ	"Mona Lisa Body Care"
CJ	"Mona Lisa Shiatsu Studio"
CJ	"Project Trade"
CJ	"West Coast Players"
CJ	"pai huen Jai"
CJ	"hong deng"
CJ	"cheng Zhao"
CJ	Hong & deng
CJ	Sui & kg
CJ	Ping & Mak
CJ	"Burlesque entertain!"
CJ	Features + Toronto + "adult entertain!"
CJ	Japanese + yakuza
CJ	"Project tugboat"

CJ, CCC, MRQ,CRDD	Charlie T's
	New Paradise Adult
	Vranish
	Solid Gold + strip!
	Dr Déjà vu
	Features + Etobicoke
	Baby Dolls or Babydolls
	Ivstan Molnar
	House of Lancaster
	Sylvatore D'Amico
	Diamond Cabaret
	Dynasty Inn +Oshawa
	Valerie Campbell
	Extravaganza + Brampton
	Ralph Maio
	Candyland or Candy Land
	Fairbancks
	Timae Eva Nagy
	Johne Sit
	Didier Serre
	Nabangxand
	Charatsengroundreuan
CJ	Kyeong hwan min
CJ, CCC, IMRQ	Bunnies + Markham
CJ	Debt bondage
CRDD	Prostitu!
CJ	Judy Tam
CJ	traite /p femme % traites
CJ, CCC, IMRQ, CRDD	Forcible confinement + prost !
CJ, CCC, IMRQ, CRDD	Forcible confinement + strip !
CCC	traite /p femme
BCJ	smuggl! /3 person & prosti!

Appendix 2: Interview Guide

This interview is part of a series being conducted with key informants regarding their knowledge and perceptions of the issue of organized crime and human trafficking.

Part One: Background Information

What is your name?

What is your occupation and your current position?

What is the name and mandate of your organization?

In general, what are your responsibilities?

What are your responsibilities vis-a-vis organized crime and/or trafficking in humans?

Have you worked in the areas of organized crime and/or trafficking in humans in previous positions?

Explain

How many years experience do you have working in the areas of organized crime and/or trafficking in humans?

Part Two: Experience

How did you come to be assigned to work in the area of organized crime and/or trafficking in humans?

How did you familiarize yourself with the issues after you were assigned to this area?

- i.e. with whom did you speak? What documents did you read etc.?

What cases/files/problems have you worked on?

- please describe/discuss those cases in as much detail as possible
- with what other individuals and/or organizations (national or international) did you work with in these cases?
- what were the key issues that emerged during those cases/files/problems?

Part Three: Problems/Solutions

In general how do you see the problem of organized crime and/or trafficking in humans?

What are the key causes?

the key issues/problems?

How could these issues best be addressed by your organization?

How about more globally, how could these issues best be addressed nationally and internationally?

In your understanding and experience how effective are the existing national and international laws and policies that are in place to address the problem?

Part Four: Conclusion

Is there anything you would like to add?

If we require clarification would we be able to contact you?

If yes, what is your preferred mode of contact?

Would you recommend someone we should contact for this research?

Can we use your name and position in our report or would you prefer a pseudonym?

Other Reports Available

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August 1998	Restorative Justice And Policing In Canada Bringing The Community Into Focus	Margaret Shaw & Frederick Jané